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NEW DELHI, JANUARY 11—JANUARY 17, 2009, SATURDAY/PAUSA 21—PAUSA 27, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

(आईएफ. I अनुभाग विभाग)

नई दिल्ली, 26 दिसम्बर, 2008

का.आ. 82.—भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 (1989 का 39) की धारा 6 की उप-धारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्द्वारा, श्री माधव लाल को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, श्री जवाहर सरकार के स्थान पर, भारतीय लघु उद्योग विकास बैंक (सिडबी) के निदेशक मंडल में निदेशक के रूप में नियुक्त करती है।

[फा.सं. 24/5/2002-आई एफ-1 (भाग-II)]

डॉ. हरमीत सिंह, अवर सचिव

MINISTRY OF FINANCE

(Department of Finance Services)

(IF. I Section)

New Delhi, the 26th December, 2008

S.O. 82.— In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the Small

Industries Development Bank of India Act, 1989 (39 of 1989), the Central Government hereby appoints Shri Madhav Lal, as a Director on the Board of Directors of Small Industries and Development Bank of India (SIDBI) in place of Shri Jawahar Sircar, for a period of three years or until further orders, whichever is earlier with effect from the date of notification.

[F. No. 24/5/2002-IF. 1 (Part-II)]

DR. HARMEET SINGH, Under Secy.

नई दिल्ली, 5 जनवरी, 2009

का.आ. 83.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्द्वारा, सुश्री मिनाती सैकिया, निवासी बिन्यू-4, बोरडोईचिला भवन, जी.एस. रोड, भागागढ़, गुवाहाटी-5, कामरूप, असम को, अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, गुवाहाटी स्थित भारतीय स्टेट बैंक के स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा.सं. 9/19/2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 5th January, 2009

S.O. 83.—In exercise of the powers conferred by of clause (c) of sub-section (1) of Section 21, read with section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Ms. Minati Saikia, resident of Bnew-4, Bordoichila Bhawan, G.S. Road, Bhagagarh, Guwahati-5, Kamrup, Assam, to be a member of the Guwahati Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F.No. 9/19/2008-BO.I]

G. B. SINGH, Dy. Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 31 दिसम्बर, 2008

का.आ 84.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 1-4-2007 से संगठन सेंटर फॉर मैटेरियल्स फॉर इलेक्ट्रॉनिक्स टेक्नालॉजी, पुणे को निम्नलिखित शर्तों के अधीन 'वैज्ञानिक अनुसंधान संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

(i) अनुमोदित 'वैज्ञानिक अनुसंधान संघ' का एक मात्र उद्देश्य वैज्ञानिक अनुसंधान करना होगा;

(ii) अनुमोदित संगठन वैज्ञानिक अनुसंधान कार्य-कलाप स्वयं करेगा;

(iii) अनुमोदित संगठन खाता बही रखेगा तथा उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन :-

(क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा

(ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा

(ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा

(घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा

(ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 112/2008/फा. सं. 203/89/2008-आ.क.नि.-II]

पदम सिंह, अवर सचिव

(Department of Revenue)

(Central Board of Direct Taxes)

New Delhi, the 31st December, 2008

S.O. 84.—It is hereby notified for general information that the organization Centre for Materials for Electronics Technology, Pune, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5D of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2007 in the category of 'scientific research association' subject to the following conditions, namely :-

(i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;

(ii) The approved organization shall carry out the scientific research activity by itself;

(iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :-

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 112/2008/F. No. 203/89/2008/ITA-II]

PADAM SINGH, Under Secy.

नई दिल्ली, 7 जनवरी, 2009

का.आ 85.—सर्वसाधारण की जानकारी के लिए एतद्द्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 1-4-2006 से संगठन एरोनाटिकल डेवलपमेंट एजेंसी, डी आर डी ओ भवन, नई दिल्ली को निम्नलिखित शर्तों के अधीन 'वैज्ञानिक अनुसंधान संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

(i) अनुमोदित 'वैज्ञानिक अनुसंधान संघ' का एक मात्र उद्देश्य वैज्ञानिक अनुसंधान करना होगा;

(ii) अनुमोदित संगठन वैज्ञानिक अनुसंधान कार्य-कलाप स्वयं करेगा;

(iii) अनुमोदित संगठन खाता बही रखेगा जिसमें तथा उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा

(1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 08/2009/फा. सं. 203/105/2008-आ.क.नि.-II]

पदम सिंह, अवर सचिव

New Delhi, the 7th January, 2009

S.O. 85.—It is hereby notified for general information that the organization Aeronautical Development Agency, DRDO Bhawan, New Delhi, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5D of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2006 in the category of 'scientific research association' subject to the following conditions, namely :-

- (i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;
- (ii) The approved organization shall carry out the scientific research activity by itself;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :-

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 08/2009/F. No. 203/105/2008/ITA-II]

PADAM SINGH, Under Secy.

नई दिल्ली, 7 जनवरी, 2009

का.आ 86.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 1-4-2005 से संगठन सेंटर फॉर लिक्विड क्रिस्टल रिसर्च, बंगलौर को निम्नलिखित शर्तों के अधीन 'वैज्ञानिक अनुसंधान संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

(i) अनुमोदित 'वैज्ञानिक अनुसंधान संघ' का एक मात्र उद्देश्य वैज्ञानिक अनुसंधान करना होगा;

(ii) अनुमोदित संगठन वैज्ञानिक अनुसंधान कार्य-कलाप स्वयं करेगा;

(iii) अनुमोदित संगठन खाता बही रखेगा जिसमें तथा उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा

परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 07/2009/फा. सं. 203/104/2008-आ.क.नि.-II]

रेनू जौहरी, निदेशक (आ.क.नि.-II)

New Delhi, the 7th January, 2009

S.O. 86.—It is hereby notified for general information that the organization Centre for Liquid Crystal Research, Bangalore, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5D of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2005 in the category of 'scientific research association' subject to the following conditions, namely :—

- (i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;
- (ii) The approved organization shall carry out the scientific research activity by itself;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of

income under sub-section (1) of section 139 of the said Act;

- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No.07/2009/F. No. 203/104/2008/ITA-II]

RENU JAUHRI, Director (ITA-II)

पर्यटन मंत्रालय

नई दिल्ली, 2 जनवरी, 2009

का.आ 87.—जन परिसर (गैर कानूनी निवासी एविकेशन) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों और दिनांक 27 नवम्बर, 2004 को भारत के राजपत्र में प्रकाशित, दिनांक 5 नवम्बर, 2004 को पर्यटन मंत्रालय, भारत सरकार के एस. ओ. सं. 3027 की अधिसूचना के अधिक्रमण में, उनको छोड़कर इस अधिक्रमण के पूर्व इस संबंध में कुछ चीजें ली गईं अथवा हटा दी गईं, केन्द्र सरकार निम्नलिखित सारणी के कॉलम (1) में उल्लिखित अधिकारी को इस अधिनियम के उद्देश्यों के लिए इस्टेट अधिकारी बनाते हुए, सरकार के राजपत्रित अधिकारी के समकक्ष अधिकारी नियुक्त करती है और स्थानीय सीमाएं भी तय करती है जिसके अंतर्गत तथा कथित सारणी के कॉलम (2) के अनुरूप की गईं प्रविष्टियों के जन परिसर की श्रेणियों के अंतर्गत, उनके संदर्भ में इस्टेट अधिकारी, कथित अधिनियम के द्वारा अथवा अधीन ऐसे इस्टेट अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा और दिए गए कर्तव्यों का निर्वाह करेगा।

सारणी

अधिकारी का पदनाम	जन परिसर की श्रेणियां और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
महाप्रबंधक, होटल पाटलीपुत्र अशोक, बीर चन्द पटेल पथ, पटना-800001	भारत पर्यटन विकास निगम द्वारा पट्टे पर ली गई अथवा उसके स्वयं के परिसर और जो पश्चिम बंगाल, बिहार, उड़ीसा तथा असम के राज्य में स्थित हैं।

[सं. 6/21/91-पीएसयू (टी)]

बी.बी. रॉय, अवर सचिव

MINISTRY OF TOURISM

New Delhi, the 2nd January, 2009

S.O. 87.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of unauthorized occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Tourism, number S.O. 3027, dated the 5th November, 2004, published in the Gazette of India dated the 27th November, 2004, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officer mentioned in column # (1) of the Table below, being the officer equivalent to the rank of Gazetted Officer of the Government to be the Estate Officer for the purposes of this Act and also defines the local limits within which and the categories of the public premises, as specified in the corresponding entry in column (2) of the said Table, in respect of which the said Estate Officer shall exercise the powers conferred, and perform the duties imposed, on such Estate Officer by or under the said Act.

TABLE

Designation of the officer	Categories of public premises and local limits of the jurisdiction
(1)	(2)
General Manager, Hotel Patliputra Ashok, Beer Chand Patel Path, Patna-800001	All premises belonging to, or taken on lease by, the India Tourism Development Corporation Limited and situated in the States of West Bengal, Bihar, Orissa and Assam

[No. 6/21/91-PSU (T)]

B. B. ROY, Under Secy.

उत्तर पूर्वी क्षेत्र विकास मंत्रालय

नई दिल्ली, 5 जनवरी, 2009

का.आ. 88.—केन्द्रीय सरकार "संघ के शासकीय प्रयोजनों के लिए प्रयोग" नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में उत्तर पूर्वी क्षेत्र विकास मंत्रालय के प्रशासनिक नियंत्रणाधीन कार्यालय, उत्तर पूर्वी क्षेत्र कृषि विपणन निगम लि. (नेरामेक), गुवाहाटी, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

उत्तर पूर्वी क्षेत्र कृषि विपणन निगम लिमिटेड

नेरामेक (गुवाहाटी)

[सं.1-14/2008-हिंदी]

राजेन्द्र मिश्र, संयुक्त सचिव

MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION

New Delhi, the 5th January, 2009

S.O. 88. — In pursuance of sub rule (4) of the Rule 10 of the Official Language (use for Official Purpose of the Union) Rules, 1976 the Central Government hereby notifies North Eastern Agricultural Marketing Corp. Ltd. (NERAMEC), Guwahati under administrative control of the Ministry of Development of North Eastern Region, whose more than 80% of employees have acquired working knowledge of Hindi.

North Eastern-Agricultural Marketing Corp. Ltd.

(NERAMEC), Guwahati

[F.No.1-14/2008-Hindi]

RAJENDRA MISHRA, Jt. Secy.

कृषि मंत्रालय

(कृषि एवं सहकारिता विभाग)

नई दिल्ली 30 दिसम्बर, 2008

का.आ. 89.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में कृषि एवं सहकारिता विभाग, कृषि मंत्रालय के संबद्ध कार्यालय अर्थ एवं सांख्यिकी निदेशालय, नई दिल्ली के निम्नलिखित प्रशासनिक नियंत्रणाधीन कार्यालयों को जिसके 80 प्रतिशत कर्मचारी वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
दूसरी मंजिल, हॉल-2, केन्द्रीय भवन,
सैक्टर- एच अलीगंज,
लखनऊ-226 024
2. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
108, जनकपुरी द्वितीय, इमली वाला
फाटक, जयपुर -302005
3. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
2113/3, दयाल भवन, चौथी मंजिल,
सौरवजी कम्पाउण्ड,
अहमदाबाद-380013
4. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
नरसिंह मार्किट, पहली मंजिल
कंकड़बाग मेन सेड,
पटना -800 020

5. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
केन्द्रीय सदन, चौथी मंजिल, बी-विंग,
कोरामंगला -II ब्लाक,
बेंगलूर-560 034
6. विपणन आसूचना एकक,
अर्थ एवं सांख्यिकी निदेशालय,
मकान नं. एस/आर-7, दूसरी मंजिल
सुपर बाजार रेजीडेन्सी, ई-8,
भरत नगर (शाहपुर),
मोपाल-462016 (मध्य प्रदेश)

[सं 3-6/2004- हिंदी नीति]

उमा गोयल, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 30th December, 2008

S.O. 89.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies

the following offices which are under the administrative control of the Directorate of Economics & Statistics, New Delhi an attached office of the Department of Agriculture and Cooperation, Ministry of Agriculture, where of 80% staff have acquired the working knowledge of Hindi :—

1. M. I. Unit, Directorate of Economics & Statistics, Second Floor, Hall 2 Kendriya Bhawan, Sector H, Aliganj, Lucknow-226 024

2. M.I. Unit, Directorate of Economics & Statistics, 108, Janakpuri Second, Imli Wala Phatak, Jaipur-302005

3. M. I. Unit, Directorate of Economics & Statistics, 2131/3, Dayal Bhawan, 4th Floor, Sorabji Compound, Ahmedabad - 380 013

4. M. I. Unit, Directorate of Economics & Statistics, Narsingh Market, 1st Floor, Kankerbagh, Main Road, Patna-800 020

5. M. I. Unit, Directorate of Economics & Statistics, Kendriya Sadan, 4th Floor, B Wing, Koramangla- 11 Block, Bangalore- 560 034

6. M. I. Unit, Directorate of Economics & Statistics, H. No. S/R- 7, 2nd Floor, Super Bazar Residency, E-8, Bharat Nagar (Shah Pura) Bhopal-462 016 (M.P.)

[No.3-6/2004- Hindi Neeti]

Uma Goel, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 30 दिसम्बर, 2008

का.आ. 90.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के उपनियम, (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं वे स्वीकृत कर दिए गए हैं :-

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	मा मा संख्या	भाग	अनुभाग	वर्ष
1	2	3	4	5	6	7	8	9
1	7835591	10-7-2008	व्यंकटेश बेवरेजेज, स. नं. 81/3/1, अग्रवाल गोडाउन के सामने ए/पी शिवाने, तालुका-हवेली जिला पुणे 411023 महाराष्ट्र ।	पैकेजबंद पेयजल, (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543			2004
2	7875809	30-9-2008	सुरभि ज्वैलर्स, दु.न. 2, सिद्धिविनायक काम्पलेक्स, संभाजी नगर, चिकली रोड एमआईडीसी, चिंचवड, जिला पुणे 411019 महाराष्ट्र ।	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999

1	2	3	4	5	6	7	8	9
3.	7876205	1-10-2008	कैलाश ज्वैलर्स, 353, शनिवार पेठ, जिला सातारा 415002 महाराष्ट्र ।	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्प- कारी-शुद्धता और चिह्नांकन	1417			1999
4.	7876912	3-10-2008	कोठारी ज्वैलर्स, सी-3, रम्य नगर, बिबवेवाडी, जिला पुणे 411037 महाराष्ट्र	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्प- कारी-शुद्धता और चिह्नांकन	1417			1999
5.	7877106	3-10-2008	नमोह प्लास्ट, प्लॉट नं. 140, स्वामी विवेकानंद, इंडस्ट्रीयल इस्टेट, हडपसर, तालुका, हवेली, जिला पुणे 411028 महाराष्ट्र ।	विद्युत संस्थापनों के लिए कंड्यूटर्स भाग 3 विद्युत रोधन सामग्री के दृढ़ सादे कंड्यूटर्स	9537	3		1983
6.	7877308	6-10-2008	कवित्सु मशीन-ओ- इलैक्ट्रिक्स प्लॉट नं. एन- 48/4, अतिरिक्त एमआईडीसी, जिला सातारा 415004 महाराष्ट्र ।	तीन फेज प्रेरणा मोटर	325			2004
7.	7871494	3-10-2008	बूंद पैकेज्ड ड्रिंकिंग वाटर, गट संख्या 321, गांव कासर, अंबोली, तालुका-मुलशी, जिला पुणे, महाराष्ट्र ।	पैकेजबंद पेयजल, (पैकेजबंद प्राकृ- तिक मिनरल जल के अलावा	14543			2004
8.	7878512	8-10-2008	पलाश ज्वैलर्स, 607, शनिवार पेठ, जिला सातारा 415002 महाराष्ट्र ।	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्प- कारी-शुद्धता और चिह्नांकन	1417			1999
9.	7878411	8-10-2008	बोधरा एग्रो इक्विपमेंट्स, प्रा.लि. प्लॉट नं. बी-16, एमआईडीसी, नगर- मनमाड रोड, जिला अहमदनगर 414111 महाराष्ट्र ।	सिंचाई उपकरण- सिंचाई पार्श्व के लिए पॉलीथिलीन पाइप्स	12786			1989
10.	7879817	14-10-2008	श्री सिद्धेश्वर ज्वैलर्स, ए/पी सावलाज सिद्धेश्वर, मंदिर के सामने, तालुका तासगांव, जिला सांगली 416311 महाराष्ट्र ।	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्प- कारी-शुद्धता और चिह्नांकन	1417			1999

1	2	3	4	5	6	7	8	9
11.	7880091	14-10-2008	श्री बालाजी प्रसन्ना केमी- कल्स ई-34,35 एमआय- डीसी कुरुकुम तालुका रौड़ जिला पुणे 413802	ब्लीचिंग पावडर- स्थिर	1065			1989
12.	7881093	20-10-2008	पंडित आत्माराम टोंक, लक्ष्मी टोंक चौक, टावर रोड, परली वैजनाथ परली वैजनाथ (टीक्यू) बीड 431515 महाराष्ट्र ।	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्प- कारी-शुद्धता और चिह्नांकन	1417			1999
13.	7875607	15-10-2008	मंगलम कोइल्स प्रा.लि. गट संख्या 100, फ्लोरा तालुका पैठन, जिला औरंगाबाद 431107	1100 वोल्ट सहित और इस कार्यकारी वोल्टेज तक के लिए पीवीसी इंसुलीकृत केबल	694			1990

[सं. सीएमडी/13:11]

पी. के. गम्भीर, उप महानिदेशक (मुहर)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARD

New Delhi, the 30th December, 2008

S.O. 90.— In pursuance of sub-regulation (5) of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule:

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No	Part	Section	Year
1	2	3	4	5	6	7	8	9
1.	7835591	10-7-2008	Venkatesh Beverages S.No. 81/3/1 Opp Agarwal Godown A/P Shivane, Taluka Haveli District Pune-411023	Packaged drink- ing water (Other than packaged natural mineral water).	14543			2004
2.	7875809	30-9-2008	Surbhi Jewellers Shop No.2, Siddhivi- nayak Complex Sambhaji Nagar, Chikil Road, MIDC, Chinchwad District Pune-411019	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999
3.	7876205	1-10-2008	Kailas Jewellers 353, Shaniwar Peth District Satara 415002	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999

3841/09-3

(3)

1	2	3	4	5	6	7	8	9
4.	7876912	3-10-2008	Kothari Jewellers C-3, Ramyanagari Bibwewadi District Pune-411037	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999
5.	7877106	3-10-2008	Namoh Plast Plot No.140, Swami Vivekanand Indl Estate Hadapsar, Taluka Haveli District Pune 411028	Conduits for electrical install- ations Part 3 Rigid plain con- duits of insula- ing materials	9537	3		1983
6.	7877308	6-10-2008	Kavitsu Machine-O- Elektriks, Plot No. N- 48/4, Addl MIDC District Satara-415004	Three phase induction motors	325			1996
7.	7871494	3-10-2008	Boond Packaged Drink- ing Water Gat No.321 Village Kasar Amboli Taluka Mulshi District Pune	Packaged drin- king water (Other than packaged natural mineral water)	14543			2004
8.	7878512	8-10-2008	Palash Jewellers 607, Shaniwar Peth District Satara 415002	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999
9.	7878411	8-10-2008	Bothara Agro Equip- ments Pvt. Ltd. Plot No. B-16, MIDC Nagar- Manmad Road District Ahmednagar 414111	Irrigation equip- ment Polyethy- lene pipes for irrigation laterals	12786			1989
10.	7879817	14-10-2008	Shri Siddheshwar Jewe- llers, A/P Savlaj Opp Siddheshwar Temple Taluka Tasgaon Disyict Sangli 416311	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999
11.	7880091	14-10-2008	Sri Balaji Prasanna Chemicals, E-34, 35 MIDC Kurkumbh Taluka Daund District Pune 413802	Bleaching powder, stable	1065			1989
12.	7881093	20-10-2008	Pandit Atmaram Tak Laxmi Tower Chowk Tower Road, Parli Vaijnath, Parli Vaijnath, (Tq) Beed 431515	Gold and gold alloys, jewellery/ artefacts- Fine- ness and marking	1417			1999
13.	7875607	15-10-2008	Mangalam Coils Pvt. Ltd Gut No. 100, Farola Taluka Paithan District Aurangabad 431107	PVC insulated cables for working voltages upto and includ- ing 1100 V	694			1990

[No. CMD/13:11]

P.K. GAMBHIR, Dy. Director General (Marks)

कोयला मंत्रालय

नई दिल्ली, 9 जनवरी, 2009

का. आ. 91.- केन्द्रीय सरकार को यह प्रतीत होता है, कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है।

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं-सी-1 (ई) III/जेजेएनआर/767-0908, तारीख 1 सितम्बर, 2008 का निरीक्षण वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), कोल ईस्टेट, सिविल लाईन्स, नागपुर 440 001 (महाराष्ट्र) के कार्यालय में या मुख्य महाप्रबंधक (एक्सप्लोरेशन), केन्द्रीय खान, योजना और डिजाइन संस्थान, गोंडवाना पॅलेस, कॉर्क रोड, राँची (झारखंड) के कार्यालय में या कोयला नियंत्रक, 1, कार्गसिल हाऊस स्ट्रीट, कोलकाता के कार्यालय में या कलेक्टर और जिला मजिस्ट्रेट, यवतमाल, महाराष्ट्र के कार्यालय में किया जा सकता है;

इस अधिसूचना के अंतर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति उक्त अधिनियम की उपधारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र के प्रकाशन की तारीख से नब्बे दिनों के भीतर, वेस्टर्न कोलफील्ड्स लिमिटेड, राजस्व विभाग, कोल ईस्टेट, सिविल लाईन्स, नागपुर - 440 001 (महाराष्ट्र) को भेजेंगे।

अनुसूची

जुनाडा एक्सप्लोरेशन ब्लॉक

वणी उत्तर क्षेत्र

जिला यवतमाल (महाराष्ट्र)

रेखांक सं-सी-1 (ई) III/जेजेएनआर/767-0908, तारीख 1 सितम्बर, 2008

क्रम संख्या	ग्राम का नाम	पटवारी सर्कल संख्या	तहसील	जिला	क्षेत्रफल (लगभग) हेक्टर	टिप्पणी
1.	बोरगांव	33	वणी	यवतमाल	26.00	भाग
2.	जुनाडा	33	वणी	यवतमाल	98.34	भाग
3.	पिंपलगांव	33	वणी	यवतमाल	18.00	भाग

कुल क्षेत्र: 142.34 हेक्टर (लगभग)

या 351.72 एकड़ (लगभग)

सीमा वर्णन:-

- क-ख: रेखा ग्राम जुनाडा के सीमा बिन्दु 'क' से आरंभ होती है और ग्राम जुनाडा से गुजरती है और ग्राम जुनाडा और पिंपलगांव की सम्मिलित ग्राम सीमा पर बिन्दु 'ख' पर मिलती है।
- ख-ग: रेखा ग्राम जुनाडा तथा पिंपलगांव की सम्मिलित ग्राम सीमा से ग्राम पिंपलगांव से होती हुई ग्राम सीमा पार करती है और ग्राम जुनाडा से होती हुई ग्राम जुनाडा और बोरगांव की सम्मिलित ग्राम सीमा से गुजरती हुई बिन्दु 'ग' पर मिलती है।
- ग-घ: रेखा ग्राम बोरगांव से गुजरती हुई ग्राम जुनाडा और बोरगांव की सम्मिलित ग्राम सीमा पर बिन्दु 'घ' पर मिलती है।
- घ-क: रेखा ग्राम बोरगांव तथा जुनाडा की सम्मिलित ग्राम सीमा के साथ गुजरती हुई ग्राम जुनाडा से होती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[फा.सं. 43015/21/2008-पीआरआईडब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 9th January, 2009

S.O. 91.— Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for Coal therein.

The plan bearing No. C-1(E) III/JJNR/767-0908 dated the 1st day of September, 2008 of the area covered by this notification can be inspected at the office of the Western Coalfields Limited, Revenue Department, Coal Estate, Civil Lines, Nagpur- 440 001, Maharashtra or at the office of the Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Place, Kanke Road, Ranchi, Jharkhand or at the office of the Coal Controller, 1, Council House Street, Kolkata or at the office of the District Collector, Yavatmal, Maharashtra.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the Officer-on-Special Duty (Land/Revenue), Western Coalfields Limited, Revenue Department, Coal Estate, Civil Lines, Nagpur-440 001, Maharashtra within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE**Junad Extension Block****Wani North Area****District: Yavatmal (Maharashtra)**

Plan No. C-1(E) III/JJNR/767-0908 dated the 1st day of September, 2008

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area in hectar	Remarks
1.	Borgaon	33	Wani	Yavatmal	26.00	Part
2.	Junada	33	Wani	Yavatmal	98.34	Part
3.	Pimpalgaon	33	Wani	Yavatmal	18.00	Part

Total area: 142.34 hectares (approximately)**or 351.72 acres (approximately)****Boundary description :**

- A-B: Line starts from point 'A' the boundry line of village Junada and passes through the village area of Junada and point 'B' meets at the point of common boundary of village Junada and village Pimpalgaon;
- B-C: Line starts from point 'B' the common boundary of village Pimpalgaon and village Junada and passes through the village boundary areas of Pimpalgaon and Borgaon villages and meets at point 'C' at village area of Borgaon;
- C-D: Line starts from point 'C' of village area of Borgaon and passes through the boundary area of village Borgaon and meets the point 'D' at common boundry of village borgaon and Junada;
- D-A: Line starts from the point 'D' from common boundary of village Junada and Borgaon and passes through the boundary area of Junada and Borgaon villages meets at the point 'A' at boundary of village Junada.

[F No.43015/21/2008-PRIW-I]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 14 जनवरी, 2009

का.आ. 92.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2559 तारीख 10 सितम्बर, 2008, जो भारत के राजपत्र तारीख 13 सितम्बर 2008, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में बीना संस्थापन से राजस्थान राज्य में कोटा तक पेट्रोलियम उत्पादों के परिवहन के लिए बीना-कोटा पाइपलाइन परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र की अधिसूचना की प्रतियां जनता को तारीख 18 नवम्बर, 2008 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि-पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : दीगोद जिला : कोटा		राज्य : राजस्थान	
क्र.सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1	भाण्डाहेडा	133	0.0180
		134	0.0750
		137	0.0200

[फा. सं. आर-31015/9/2008 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 14th January, 2009

S.O. 92.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2559, dated the 10th September, 2008, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 13th September, 2008, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying a pipeline for transportation of petroleum products through Bina-Kota Pipeline Project from Bina terminal in the State of Madhya Pradesh to Kota in the State of Rajasthan by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 18th November, 2008;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Digod District : Kota State : Rajasthan			
S.No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1	Bhandaheda	133	0.0180
		134	0.0750
		137	0.0200

[F.No. R-31015/9/2008 OR-II]

A. GOSWAMI, Under Secy

नई दिल्ली, 14 जनवरी, 2009

का.आ. 93.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम

कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 1994 तारीख 25 जुलाई, 2008, जो भारत के राजपत्र तारीख 26 जुलाई, 2008, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में बीना संस्थापन से राजस्थान राज्य में कोटा तक पेट्रोलियम उत्पादों के परिवहन के लिए बीना-कोटा पाइपलाइन परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र की अधिसूचना की प्रतियां जनता को तारीख 6 नवम्बर, 2008 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : गुना जिला : गुना राज्य : मध्य प्रदेश

क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	कींदर	104	0.4571
2.	पुरापोसर	500	1.2123
		111	0.7010
3.	विनछ्याई	121	0.6250
4.	विशोनिया	21	0.5690
		105	0.3793
		65	0.0245
5.	किशनगढ़	65	0.4100

1	2	3	4
6.	रिहाना	63	0.7175
		11	0.2860
7.	धनोरिया	45	0.4375
		47	0.7720
		28	0.2600
		37	0.0350
		34	0.2200
		25	0.0800
		27	0.3200
		12	0.1040
		8	0.0715
8.	सावरामोदी	147	0.8390
		126	0.1430
9.	पोरूखेड़ी	141	0.7495
		130	0.3510
		100	0.0325
		131	0.7080
		132	1.1500
10.	सुहाया	307	0.1495
		269	0.2130
		258	0.2800
11.	भूराखेड़ी	179	0.3770
12.	सेमराखेड़ा	63	0.0260
13.	रामनगर	79	0.3150
14.	बनियानी	174	0.0020
15.	आनापुरा	34	0.3255
16.	पाठी	23	0.2520

[फा. सं. आर. -31015/11/2008-OR-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 14th January, 2009

S.O. 93.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No.1994, dated the 25th July, 2008, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 26th July, 2008, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule

appended to that notification for the purpose of laying a pipeline for transportation of petroleum products through Bina-Kota Pipeline Project from Bina terminal in the State of Madhya Pradesh to Kota in the State of Rajasthan by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 6th November, 2008;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Guna District : Guna State : Madhya Pradesh

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1	Keendar	104	0.4571
2	Puraposar	500	1.2123
		111	0.7010
3	Vinkhyai	121	0.6250
4	Vishonia	21	0.5690
		105	0.3793
		65	0.0245
5	Kishangarh	65	0.4100
6	Rihana	63	0.7175
		11	0.2860
7	Dhanoriya	45	0.4375
		47	0.7720
		28	0.2600
		37	0.0350

1	2	3	4
		34	0.2200
		25	0.0800
		27	0.3200
		12	0.1040
		8	0.0715
8	Sawramodi	147	0.8390
		126	0.1430
9	Porukhedi	141	0.7495
		130	0.3510
		100	0.0325
		131	0.7080
		132	1.1500
10	Suhaya	307	0.1495
		269	0.2130
		258	0.2800
11	Bhoorakhedi	179	0.3770
12	Semrakheda	63	0.0260
13	Ramnagar	79	0.3150
14	Baniyani	174	0.0020
15	Aanapura	34	0.3255
16	Pathi	23	0.2520

[F. No. R-31015/11/2008-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 14 जनवरी, 2009

का.आ. 94.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2560 तारीख 10 सितम्बर, 2008, जो भारत के राजपत्र तारीख 13 सितम्बर, 2008, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में बीना संस्थापन से राजस्थान राज्य में कोटा तक पेट्रोलियम उत्पादों के परिवहन के लिए बीना-कोटा पाइपलाइन परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 19 नवम्बर, 2008 को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : लाड़पुरा		जिला : कोटा	राज्य : राजस्थान
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1.	कैथोड़ी	156	0.0342
		161	0.0360
		162	0.0050
		163	0.3200
		164	0.0360
		165	0.0720
		173/243	0.0072
		175	0.0144
2.	ताथेड	772	0.1300
		773	0.0486
		774	0.0432
		825	0.3100
		770	0.5800
		822	0.1800

[फा. सं. आर.-31015/7/2008-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 14th January, 2009

S.O. 94.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2560, dated the 10th September, 2008, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the

said Act) published in the Gazette of India dated the 13th September, 2008, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying a pipeline for transportation of petroleum products through Bina-Kota Pipeline Project from Bina terminal in the State of Madhya Pradesh to Kota in the State of Rajasthan by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette Notification were made available to the public on the 19th November, 2008;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Ladpura		District : Kota	State : Rajasthan
S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Kaithodi	156	0.0342
		161	0.0360
		162	0.0050
		163	0.3200
		164	0.0360
		165	0.0720
		173/243	0.0072
		175	0.0144
2	Tathed	772	0.1300
		773	0.0486
		774	0.0432
		825	0.3100
		770	0.5800
		822	0.1800

[F. No. R-31015/7/2008-OR-II]

A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 95.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं पी.जी.आई. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 9/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल-42012/245/2003-आई. आर. (सी.एम.-II)]

अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 22nd December, 2008

S.O. 95.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh as shown in the Annexure, in the industrial dispute between the management of PGI, and their workman, received by the Central Government on 22-12-2008.

[No. L-42012/245/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-1, CHANDIGARH**

Case No. I.D. 9/2005

Shri Gopal, S/o Shri Raghubir Singh, C/o
Shri Mangal Singh, R/o. 1370, Dadu Majra Colony,
Chandigarh ... Applicant

Versus

The Director, PGI, Sector 12, Chandigarh.

... Respondent

APPEARANCES :

For the workman : None.

For the management : Shri T. R. Sharma

AWARD

Passed on : 2-12-2008

Central Government vide notification No. L-42012/245/2003-IR(CM-II), dated 24-12-2004, has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of PGI Chandigarh in terminating the services of Shri Gopal Sweeper, w.e.f. 15-9-2001 is legal and justified ? If not, to what relief the workman is entitled to ?"

2. None is present on behalf of the workman. Learned representative of the management is present. From last many days fixed for the hearing of this case the workman is not ensuring his presence. The reference was referred by the Central Government in the year 2005. Several opportunities have been given to the workman but he is not availing the opportunity of being heard. It is already 1.15 p.m. At this stage, I have no option otherwise then to dismiss the claim of workman in reference for non-prosecution and return the reference to the Central Government as such. Accordingly, the reference is returned as such. Let the Central Government be informed. File be consigned.

Chandigarh

2-12-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 96.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं भारतीय खाद्य निगम के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 101/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल-22012/515/1996-आई. आर. (सी.-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 96.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 101/98) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 22-12-2008.

[No. L-22012/515/1996-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-1, CHANDIGARH**

Case No. I.D. 101/98

Shri Bawa S/o Shri Jeen, Village-Thigli, P.O.
Sidwan Dona, Teh. and Dist. Kapurthala.

... Applicant

Versus

The District Manager, Food Corporation of India,
Kapurthala, Punjab ... Respondent

384709-5

APPEARANCES :

For the workman : Sri J. P. Singh

For the management : Sri Santokh Singh

AWARD

Passed on : 28-11-2008

Government of India vide notification No. L-22012/515/96-IR(C-II), dated 20-5-1998 referred the following industrial dispute for judicial adjudication to this Tribunal :

“Whether the action of the management of FCI in terminating the services of Shri Bawa S/o Shri Jeen w.c.f. 1-10-1995 is justified or not ? If so, what relief workman is entitled to ?”

As per the statement of claim, the case of the workman, in nut shell, is that he joined the services in the year 1978 and the last pay drawn by him was Rs. 1690. His services were terminated on 1-10-1995 without any notice or terminal benefits. Juniors to the workman have been retained in the services, whereas, his services were terminated. Just after his termination he raised the industrial dispute in February, 1996 and on account of failure of conciliation proceedings, this reference. Management has denied the case of the workman. It has been stated by the management in its written statement that Shri Bawa has never been appointed by the FCI. There is no master-servant relation between the two. As he was not appointed and had not worked with the management of FCI, no question of termination arise.

The main question for determination before this Tribunal is whether Shri Bawa had ever worked with the management of FCI in any capacity ? If yes, whether he was illegally terminated from the services ?

Both the parties were afforded the opportunity for adducing evidence. They did so. I have heard learned counsels for the parties and pursued the entire materials on record.

It is the duty of the workman to prove before this Tribunal that he has worked with the management of FCI at any point of time. No evidence except his contention in his affidavit is filed which shows the master-servant relationship between the workman and the management of FCI. Moreover, it is also alleged by the management of FCI that for similar cause the workman filed an application under Section 33C(2) of Industrial Disputes Act in the Court of Shri M. S. Virdhi, Presiding Officer,

Labour Court, Jalandhar. It is also alleged by the management that the claim of the workman was also dismissed by the Labour Court, Conciliation Officer, Kapurthala and subsequent appeal was also dismissed.

On perusal of the entire materials on record, I am unable to find any merit in the contention of Shri Bawa, the workman, that he had worked with the management from 1978 to October 1995. Moreover, on the similar cause he has also invoked the jurisdiction of Jalandhar Court which is pending decision, as per the information given by the workman. It is true that some documents have been filed by the workman, but on scrutiny of these documents, I am unable to find out any relation of these documents with the case of the workman that he had ever worked with the management of FCI.

Thus, the workman utterly failed to prove any master-servant relationship between himself and the management of respondent. He has failed to prove that he was engaged by the FCI and the year 1978 and he worked upto 1995. Accordingly, this reference is disposed of with the finding the workman never worked with the management of respondent and, accordingly, no question of his termination arise. Let the Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 97.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेन्डेंट ऑफ पोस्ट ऑफिस के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 31/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल 40011/3/1996-आई. आर. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 97.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/1998) of the Central Government Industrial Tribunal-cum Labour Court No. I, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Superintendent of Post Office and their workman, which was received by the Central Government on 22-12-2008.

[No. L-40011/3/1996-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

Case No. ID 31/98

Sh. B.S. Dhiman,
Branch Secretary,
AIPEU Class III EDA,
C/o D.R. Sharma,
H. No. 551, Sector 41-A,
Chandigarh-160017

... Applicant

Versus

Superintendent of Post Office,
Dharmshala,
Division Dharmshala, (H.P.) 176215. ... Respondent

APPEARANCES

For the workman : None

For the management : Sh. Sanjay Goel

AWARD

Passed On : 10-12-08

This reference is an example of inaction on part of the administrative authorities on the claim of 31 petitioners. If a proper and reasonable decision would have been taken by the management of respondent, there was no occasion for workmen to raise the industrial dispute for redressal of their grievances. Furthermore, whatever may be the reasons, the Court lying vacant or otherwise, the workmen also suffered due to the inaction of this Tribunal because their grievances are going to be redressed after 10 years from the date of receiving the reference, whereas, this Tribunal was supposed to redress their grievances within 3 months.

The reference vide Notification No. L-40011/2/96-IR (DU) dated 27-1-1998 received by this Tribunal from the Government of India, Ministry of Labour is as follows :

“Whether the action of the P & T Department represented through Superintendent of Post Offices Dharmshala Region Dharamshala in denying payment of arrears of Special Compensatory Allowance for the three years prior to 31-5-91 and subsequent payment of special allowance at Shimla rates to 31 employees posted at Palampur at par with the 101 employees who are being paid Special Compensatory Allowance at Shimla rate, is fair and just. If not, to what relief the 31 employees are entitled to and from which date ?”

The main question for determination before this Tribunal is whether 31 workmen in question are entitled

for the Special Compensatory Allowance at par with 101 employees who are getting such allowance on the decision taken by the competent ministry under direction given by Central Administrative Tribunal ? The special compensatory allowance was denied to 31 employees on the ground that they were not parties to the proceedings before Central Administrative Tribunal directing the Ministry of Postal and Telecommunication Department for disposal of representation of 101 employees regarding their eligibility for getting special compensatory allowance as per the rates prevailing at Shimla.

The main contention of the workmen is that they are illegally and wrongfully denied the Special Compensation Allowance at Palampur whereas, their 101 counterpart employees are getting the same.

The contention of the management of respondent is that these 31 employees were not parties to the proceedings before the Central Administrative Tribunal, hence, they were denied the Special Compensatory Allowance.

Parties were afforded the opportunity of being heard and for adducing evidence.

On perusal of the materials on record, it is evident that previously, Palampur was not declared remote area and no Remote Locality Allowance was admissible to the Government of India employees including Postal Department Employees posted at Palampur. The employees of the Postal as well as Telecommunication Department filed a petition claiming party at par with the employees posted at Shimla before the Central Administrative Tribunal. The Tribunal did not decide the claim of the applicants but directed the respondents to decide the claim by passing a speaking order after taking into consideration the relevant factors with regard to the tropical and geographical conditions of Palampur.

The Ministry of Communication, Department of Telecom Government of India took a decision on 13-9-94 that Palampur is as remote as Shimla and the employees of Telecom Department posted at Palampur were held entitled for the grant of Remote Locality Allowance at the same rates as were admissible to the Central Government employees posted at Shimla. Since the workmen were also working in the Government of India, they raised their grievances to the management by moving representations followed by subsequent reminders. No decision was taken by the management. It was the discriminatory act of the management because Central Government Employees of Telecommunication Department posted at Palampur were getting the allowances, whereas 31 employees were denied the same without any reason (reasonable criteria).

From the relevant rules, it is evident that Special Compensatory (Remote Locality) Allowance is granted

to the employees on the basis of difficult living conditions of that area. From the decision taken by the Central Government, Ministry of Telecommunication the living conditions in Palampur have been declared as harsh and difficult as of Shimla. But the workmen were denied the Special Compensatory Allowance (Remote Locality) on account of their not being the parties to the petition before Central Administrative Tribunal.

When any Ministry/Department of Central Government passed any order it should be equally applicable to all placed under the same circumstances. It is administrative proprietary that decision of any Ministry of Government of India should be implemented to the similarly placed members of service of every departments. If the circumstances are different, the claim of the workmen can be differentiated. But where the circumstances are same, no discrimination should have been made by the Postal Department in granting the Special Compensatory (Remote Locality) Allowance to 31 Central Government Employees of Central Government placed in the similar circumstances. One hundred one Central Government employees posted at Palampur are getting the allowance, whereas, these 31 employees who are serving in the same harsh and difficult conditions have been denied the same.

Article 14 of the Constitution protected the right to equality of every citizen throughout the territory of India. Right to equality, which is the genesis of fundamental rights protected by the Constitution, includes equality before the law and equal protection of laws throughout the territory of India. Equal protection of laws throughout the territory means that there should be no discrimination in between the member of classes which are similarly placed. The test of equal protection of laws is that presumption is always in the favour of the administrative direction that the classification made by administrative policy is reasonable unless otherwise shown. But if the case before the Tribunal or any Adjudicating Authority is that administrative policy made no attempt at all to make a classification but make out a particular individual from class without having any different criteria to that individual or class, the presumption of reasonableness in favour of administrative decision is rebutted and the Tribunal or the Adjudicating Authority is bound to invalidate the administrative decision as violating the guarantee of equal protection.

On perusal of entire materials on record, it is evident that only visible attempt for making a classification between the employees of Postal Departments (the workmen in question) and the 101 employees of Central Government is that these 31 employees were not the parties in the petition before Central Administrative Tribunal on whose direction the Palampur was declared as remote as Shimla. It was specifically made clear that the Government employees posted at Palampur will be entitled for the

Remote Area Allowance with similar rates as prevailing in Shimla. In my view, it cannot be a reasonable criteria for making any distinction between the two classes of employees of Central Government. If all the employees are working in the same and similar harsh and difficult conditions, they cannot be denied the allowance merely on the ground that they had not been the parties in the proceedings before the Central Administrative Tribunal on whose direction the Central Government decided the remoteness and harsh conditions of Palampur.

As stated earlier that whenever any Ministry of Central Government decided a particular issue of common cause and concern, the administrative proprietary requires to implement the same to the employees of other departments, who are similarly placed. Thus, there was no occasion before the management of respondent to deny the claim of 31 members on the ground that they were not parties to the proceedings before Central Administrative Tribunal. The denial of rights for getting the Remote Area Allowance is in violation of the right to equal protection protected under Article 14 of the Constitution. Thus, all the workmen are entitled for Remote Area Allowance on the same terms and conditions as the other 101 Central Government employees posted at Palampur in the similar conditions are getting. The reference is accordingly disposed of. The management of respondent is directed to provide and pay the Remote Area Allowance to all the 31 workmen as per the policy of the Central Government, providing the special allowance (Remote Area Allowance) to 101 other employees of Central Government, within one month from the publication of this award. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 98.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल सिल्लिक बोर्ड के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 141, 143, 147/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल 42012/99, 96, 97/1996-आई आर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 98.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 141, 143, 147/1997) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the

employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 22-12-2008.

[No. L-42012/99, 96, 97/1996-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-1, CHANDIGARH

Case No. I.D. nos. 143/97 Smt. Banso Devi Vs. Basic Seed Farm, NSP Central Silk Board, Reference No. L-42012/96/96-IR (DU), dated 2-7-97, I.D. No. 147/97 Sh. Raj Kumar Vs. Basic Seed Farm, NSP Central Silk Board, Reference No. L-42012/97/96-IR (DU) dated 24-6-97 and I.D. No. 141/97 Sh. Subhash Chander Vs. Basic Seed Farm, NSP Central Silk Board, Reference No. L-42012/99/96-IR(DU) dated 2-7-97. . . . Applicant

Versus

1. Jt. Secy. (Tech.), N.S.P., Central Silk Board, H.No. 507, Indira Colony, Timber Road, Old Janipur (J & K).
2. The Asstt. Director, N.S.P., P-2, B.S.F., Miran Sahib, Distt-Jammu (J & K). . . . Respondents

APPEARANCES

For the workman : Sh. Subhash Talwar
For the management : Sh. M. K. Dogra

AWARD

Passed on 11-12-2008

These three references namely I.D. 141/97, Sh. Subhash Chander Vs. Basic Seed Farm, NSP Central Silk Board Reference No. L-42012-99/96-IR (DU) dated 2-7-1997, I.D. No. 147/97 Sh. Raj Kumar Vs. Basic Seed Farm, NSP Central Silk Board Reference No. L-42012/97/96-IR (DU) dated 24th June, 1997 and I.D. No. 143/97, Smt. Banso Devi Vs. Basic Seed Farm, NSP Central Silk Board Reference No. L-42012/96/96-IR (DU) dated 2-7-1997 are of same nature. Common question of law and facts are involved, accordingly, all these references are hereby disposed of by common award. Reference I.D. No. 141/97, Sh. Subhash Chander Vs. Basic Seed Farm, NSP Central Silk Board shall be the leading reference and copy of this award will be placed in rest of two references.

The main questions for determination before this Tribunal are whether there existed any master servant relationship between the workmen and the management of respondent, and whether the disengagement of workmen from the services shall be considered as their

retrenchment as per the provisions of Industrial Disputes Act ? Case of all the workmen, in nut shell, is that they were employed by the management on 1-5-92 and worked uninterruptedly upto 14-11-95. They were getting Rs. 1400 per month as wages. Their services were terminated without notice or retrenchment compensation against the provisions of Section 25F, G and H of Industrial Disputes Act (hereinafter referred as an Act). Juniors to them were retained in service whereas, services of the workmen were terminated. On the basis of above averments, all the workmen have requested for their reinstatement into the services with full back wages along with other consequential reliefs.

The management of respondent contested the contention of workmen by filing written statement. It was alleged by the management that management of respondent is not an industry; therefore, no industrial dispute existed in between the workman and the management. It was also alleged by the management of respondent that the nature of engagement of all the workmen with the management was contractual. As soon as the time of the contract was over, their relationship with the management came to an end and their disengagement, on account of expiry of the contract, cannot be termed as retrenchment from the services. It was also alleged that no workman has completed 240 days in the preceding year from the date of their termination; hence, the workmen are not entitled for any relief.

Both of the parties were afforded the opportunity for adducing evidence. Oral and documentary evidence was adduced. Heard learned counsels for the parties. Perused all the materials on record.

The management has taken objection regarding the master servant relationship and the nature of industrial dispute by stating that respondent is not an industry.

The term 'industry' has been defined in Section 2(j) of the Industrial Disputes Act, 1947, to mean any business, trade, undertaking, manufacture or calling or employers and includes any calling, services, employment, handicraft, or industrial occupation or avocation of workmen.

In Bangalore Water Supply case (supra), 7 Judges Bench of Hon'ble the Apex Court has defined the word industry. As per the above mentioned verdict of the Apex Court, term 'industry' has been defined in Sub-section 2(j) in avide import as :—

- (a) Where there is (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but

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inclusive of materials things or services geared to celestial bliss), *prima facie*, there is an industry in the enterprise.

- (b) Absence of profit, motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.
- (c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- (d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Thus, the test (especially triple test) referred by Hon'ble the Apex Court in Bangalore Water Supply case (supra) are necessary to qualify any institution to be an industry.

Regarding the sovereign functions, Hon'ble the Apex Court in Bangalore Water Supply case (supra) held that sovereign functions strictly understood alone qualified exemption, not the welfare activities or economic adventures undertaking by Government or statutory bodies. Even in departments discharging sovereign functions, if there are units which are industries and they are substantially several then they can be consider to come within section 2(j) of the Act, in the definition of 'industry'.

Thus, the decision whether a particular organization is an industry or not is to be taken on the basis of the work done and business carried on by it, which, absolutely depends on the facts and circumstances of each case. From the evidence of parties, it is evident that work of the workmen was to pluck the leaves and rearing of silkworm in process to prepare the silk. Thus, the activity carried on and work done by the management cannot be said to be qualified for the research work strictly. The services rendered by the management to the society make the organization distinct than the research organization strictly so called. Thus, on the basis of the activities carried on the Basic Seed Farm, NSP Central Silk Board, I am of the view that the management is an industry.

The another issue for determination before this Tribunal is whether the disengagement of the workmen will be termed as retrenchment as per the definition of the term retrenchment given under the Act? From the evidenced adduced by both of the parties, it is clear that all the workmen were engaged on contractual basis initially for 59 days and this contract was renewed again and again, number of times by the separate instrument. All the instruments by which the workmen were provided the work are on record. It is one of the term of the

memorandum, providing the work to the workmen, that the nature of engagement as casual labourer shall be discontinued/terminated at once when the specific work of casual nature will be over or particular unit is closed without notice. The workmen were engaged on the basis of the above mentioned terms for a specific, particular and definite time. Accordingly, considering the nature of employment given to the workmen, their services automatically came to an end on expiration of the term of contract. During the term of contract, their services could have also been terminated without notice in case the work to which they were engaged was over or the unit in which they were working was closed down. Thus, the disengagement can not be termed as retrenchment under the provisions of the Act, and this fact has no meaning that the workmen have completed 240 days of work with the management in the preceding year from the date of their termination. As soon as the time of contract was over, the relationship between workmen and management came to an end. Thereafter, there was no master-servant relationship between the two. Accordingly, all these references are disposed of positively that management was legal and justified in terminating the services of the workmen and they are not entitled to any elief. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 99.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 87, 89/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल 40012/134, 133/96-आई. आर. (डी.यू.)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 99.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87, 89/98) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 22-12-2008.

[No. L-40012//134, 133/96-IR (DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR
SHARMA, PRESIDING OFFICER, CENTRAL
GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

**Case No. I.Ds. 87/98 of Sh. Saroop Lal and
89/98 of Sh. Samuel**

1. Sh. Saroop Lal C/o Genl. Secy.,
PSEB Workers' Union (Regd.),
280 Ludhiana Mohalla,
Dhariwal-143519,
Distt. Gurdaspur (Pb.).
2. Sh. Samuel C/o General Secretary,
PSEB Workers' Union (Regd.),
280, Ludhiana Mohalla,
Dhariwal-143519,
Distt. Gurdaspur (Pb.).

... Applicants

Versus

Sub-Divisional Officer,
Telecommunication,
Gurdaspur (Pb.)-143521

... Respondent

APPEARANCES

For the workmen : Sh. Wilson.
For the management : Sh. G.C. Babbar

AWARD

Passed on 27-11-08

These two references namely I.D. No. 87/98 Sh. Saroop Lal vs. Telecommunication, reference No. L-40012/134/96-IR (DU) dated 2-4-98 and I.D. No. 89/98 Sh. Samuel vs. Telecommunication, reference No. L-40012/133/96-IR (DU) dated 16-4-98 have been referred by the Central Government for judicial adjudication of this Tribunal. The common questions of law and facts are involved in both of the references, hence, the references are hereby disposed of by a common award.

The main questions for determination in both of the references are whether the termination of both of the workmen in the month of February, 1989 by the management of Telephone Department, is legal and justified? If not, to what relief both of the workmen are entitled?

In nut shell, it is the case of the workman, Sh. Samuel that he was engaged by the department on daily wages on 1-8-86 @ Rs. 680/- per month. His services were terminated on 15-2-89 without notice and terminal benefits.

Likewise, it is also the case of workman, Sh. Saroop Lal that he was engaged with the department on 1-8-86 @ Rs. 680 per month on daily wages. His services were terminated without any notice or terminal benefits. Both

of the workmen have contended their termination illegal being against the provisions of Industrial Disputes Act (hereinafter referred to as an Act.).

The management of respondent Telecommunication Department denied the contention of workmen. Certain preliminary objections were raised which includes that the claim of the workmen is barred by time because industrial dispute was raised after 10 years without disclosing the reasons for delay. Another objection raised by the management is that the services of the workmen, have not been terminated by the management but both of them have voluntarily surrendered by absenting themselves from duty without information. It has also been alleged by the management that none of the workman has completed 240 days of work with management in the preceding year from the date of their termination. It is further alleged by the management that workman Sh. Samuel had worked only for 73 days from 7-10-87 to 31-1-89, whereas, workman Sh. Saroop Lal has only worked for 122 days from 1-8-86 to 31-1-89. The management has also informed the Tribunal that workmen raised the industrial dispute to get benefit of policies of the department regarding regularization of services of those workmen who have completed one year of service on a particular date. This policy was framed and implemented by the management on direction of the Hon'ble the Apex Court.

I have given opportunity for adducing evidence to both of the parties. Sh. Samuel filed the affidavit and he was cross-examined by learned counsel for the management. He has also adduced evidence of Sh. Ashwani Kumar as WW2, Sh. Balkar Singh as WW3, Sh. Jasbir Singh as WW4 and Sh. Ajit Singh as WW5, Sh. K.K. Gulati, SDO(T), Gurdaspur filed his affidavit and he was cross-examined by learned for the workmen. Certain documents were also filed by both of the parties. The policy decision framed by the management regarding regularization of the services of the workmen are on record. Statement of working days has also been filed by the management. The workman has filed certain letters dated 23-5-91, 21-6-92 and 21-3-93 along with the photocopies of AD card attached with the registered letter. All these letters have written to Assistant General Manager, Telecommunication Department, Gurdaspur.

I have heard learned counsels for the parties. A copy of the judgment passed by Hon'ble Supreme Court of India in writ petition No. 1280 of 1988, Ram Gopal and Others Vs. Union of India has also been field.

The main questions for determination before this Tribunal are as follows :

1. Whether workmen raised industrial dispute abnormally late without showing any justification?

2. Whether the workmen have abandoned the services as alleged by the management?
3. Whether the workmen have completed 240 days of work with the management in the preceding year from the date of their disengagement through termination or their surrendering the job? If yes, to what relief they are entitled?

So far as the issue Nos. 1 and 2 are concerned, both are interlinked, hence, for ends of justice, I am disposing of them jointly. Admittedly, the workmen worked with the department upto February, 1989. Thereafter, they raised the industrial dispute in the month of January, 1996. No reason for raising the industrial dispute by such an abnormal delay has been mentioned by the workmen. Few applications written by the workmen are on record in both of the references, but these applications cannot be considered by this Tribunal on the ground that neither the statement of claim and affidavit of the workman disclosed the writing of such application by workmen to the Deputy General Manager Telecommunication, Gurdaspur, nor these applications have been proved properly. It is true that documents are not required to be proved strictly as per the provisions of Indian Evidence Act, in the proceedings before the Tribunal, but it does not mean that every document filed by the parties has to be relied upon. There is no evidence on record that these applications were sent to the Deputy General Manager, Telecommunication, Gurdaspur. There is no stamp of any post office on the AD card. The photocopy of the AD card should have contained an endorsement of the post office regarding receiving of registered letter. All the photocopies of AD does not contain any such endorsement or even seal of the post office. Thus, on account of failure of workmen to prove that the documents were communicated to the department, I am unable to consider these applications as genuine documents to be relied upon.

Thus, for seven years, the workmen kept mum and it was mid of year 1996, they raised an industrial dispute. The reason for raising the industrial dispute seems to be very clear. In the year 1990, Hon'ble Supreme Court of India in the writ petition No. 1280/1988, Ram Gopal and Others Vs. Union of India passed the order on 17-4-90, directing the respondent to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department.

In compliance of the directions given by Hon'ble the Apex Court, Telephone Department framed a policy regarding the regularization of the service of workmen who have completed one year of service. The policy adopted by the Telecommunication Department is on record.

The circumstances speaks itself. It was a new circumstance under which all the workmen, who have

completed one year of service without interruption were to be considered for regularization by the department of Telecommunication in compliance of the direction of Hon'ble the Apex Court. On perusal of all the materials on record, this was the occasion before both of the workmen to raise the industrial dispute after a long time without explaining the cause of delay. The statement of claim filed by the workmen shows that they have filed it very casually. They have not even mentioned the working days they have worked with the management of Telecommunication. None of the workmen have taken the plea that they have not surrendered their services. It was a specific plea taken by the management that both of the workmen have surrendered their services and their services were not terminated by the department. After filing the WS by the management taking the plea of abandonment of service by the workmen, they have filed replication and affidavits, but none of the workmen have denied their abandonment the services. The circumstances shows that the workmen abandoned their services, remained silent for considerable time, almost 7 years and after having the knowledge of beneficiary scheme adopted by the management of Telecommunication Department, raised the industrial dispute, just to get the benefit of the beneficiary policy. None of the workman has said a single sentence about this abnormal delay. Every workman has produced number of witnesses as more as 5, but almost all the witnesses have adduced that they do not know the workmen and have no knowledge whether the workmen have worked with the Department. Accordingly, on perusal of the facts and circumstances of the case, I am of the view that both of the workmen abandoned their services and just to take benefit of the beneficiary scheme adopted by the management of Telecommunication Department, casually raised the industrial dispute after a long period of 7 years without explaining the delay, and on account of failure of reconciliation proceedings, Central Government referred the industrial dispute for adjudication of this Tribunal. Both of the issues are disposed of accordingly.

The next question for determination is whether workmen have completed 240 days of work with the department. It is the duty of the workmen to prove that they have worked for 240 days in the preceding year from the date of their termination, but none of the workman has proved it. The statement of claim even does not contain a single sentence that workmen have completed 240 days of work with the management in the preceding year from the date of their termination. On the other hand, the management, by documentary evidence, has proved that Sh. Samuel has worked with the department only for 73 days, whereas, Sh. Saroop Lal has worked with the department only for 120 days. Thus, none of the workman has completed 240 days of work with the department before their surrendering the job and they are not entitled to any relief. Both of the references are disposed of

accordingly. ID No. 87/98 is the leading file in which this award is passed. A copy of this award shall be placed in ID. 89/98. Central Government be informed. File be consigned.

G.K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का. आ. 100.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 133/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल-40012/26/2003-आई. आर. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 133/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 22-12-2008.

[No. L-40012/26/2003-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

Case No. I.D. 133/2003

Sh. Bhumi Raj Singh,
S/o Swaran Singh,
R/o Village & PO Manjhiar,
Via. Sira Tehsil Naduan,
Hamirpur (Distt.)

... Applicant

Versus

The General Manager, BSNL,
(HP), Hamirpur (Distt.)-177001

... Respondent

APPEARANCES

For the workman : Sh. R.P. Rana

For the management : Sh. K.K. Thakur

AWARD

Passed on 28-11-08

Government of India vide Notification No. L-40012/26/2003-IR (DU) dated 20-6-2003 referred the following industrial dispute for adjudication to this Tribunal :

"Whether the action of the management of General Manager, Deptt. of Telecom, Hamirpur in terminating the services of Sh. Bhumi Raj, Ex-Beldar, without any notice and without any payment of retrenchment compensation in violation of statutory provisions of Section 25F and H of the ID Act, 1947 is just and legal? If not to what relief the concerned workman is entitled to and from which date?"

From the plain reading of the reference, it is clear that the legality of the termination of the workman from the services is to be adjudicated on the ground of violation of provisions of Section 25-F and 25-H of I.D. Act. Meaning thereby, this Tribunal has to adjudicated whether the workman has completed 240 days with the management and his services were terminated from the services without notice and retrenchment compensation, and whether the management has violated the right to priority of a retrenched workman? The contention of the workman, in nut shell is, that the workman was engaged as Beldar on daily wage basis w.e.f. 1-3-96 under the control of SDO(T), Nadaun. His services were retrenched w.e.f. 1-8-96. The workman further worked with the department from 8-8-96 to 30-11-96, under order of Hon'ble the High Court of Himachal Pradesh, staying the implementation of termination order. The workman has further contended that in the month of June, 1997, a fresh person Sh. Ramesh Kumar was engaged as Beldar on daily waged basis in violation of the provisions of Section 25-H of Industrial Disputes Act.

It is the admitted case of the parties that the workman approached the Hon'ble High Court of Himachal Pradesh against the termination order dated 1-8-96, and the writ petition filed by the workman was dismissed by Hon'ble the High Court, later on, on the jurisdictional issue.

It is also the admitted case of the parties that the name of the workman was sponsored by the District Employment Officer for considering his name for his appointment as regular mazdoor. He was interviewed but could not qualify the examination. It is the further admission of the parties that aggrieved with the selection procedure, the workman also filed a petition before the Central Administrative Tribunal but the same was dismissed on 4-4-01.

The contention of the management which is clear from the written statement is that the workman has not

completed 240 days of the work with the department in the preceding year from the date of his termination, hence, no notice or retrenchment compensation was required for his disengagement from the services. It is also the contention of the management that no person was engaged on daily wages as Beldar after the termination of the services of the workman. Regarding Sh. Rakesh Kumar, it is the contention of the management that he was engaged as Safai Karamchari and not as Beldar. Regarding the period from 8-8-96 to 30-11-96, it is stated by the management, Telecommunication Department that this period cannot be counted while calculating the working days of the workman with the department because the workman worked on the basis of stay order by Hon'ble the High Court of Himachal Pradesh in the writ which was, later on, dismissed on merits.

Both of the parties were afforded the opportunity for adducing evidence. Sh. Bhumi Raj, the workman filed his affidavit and he was subjected to cross-examination by learned counsel for the management on 23-10-08. On the other hand, Sh. D.R. Rarooh Divisional Engineer, Telecommunication, Una filed his affidavit on behalf of the management and he was too subjected to cross-examination by learned counsel for the workman on 23-10-08. Certain documents have also been filed by the parties. A list of calculation of working days has been filed by the workman as Ex. W1/1 to W1/4.

I have heard learned counsels for the parties and perused entire materials on record. The main questions for determination, as stated earlier, are whether the workman has completed 240 days of work in the preceding year from the date of his termination, and whether any junior was appointed in the same cadre and service from which the workman was retrenched, ignoring his priority to the job? If the period from 8-8-96 to 30-10-96 is not counted, the workman had not completed 240 days of work with the department in the preceding year from the date of his termination. But, this period is counted as the working days of the workman, he has certainly worked for 240 days. The contention of the management in this regard is that the period from 8-8-96 to 30-11-96 cannot be counted while calculating the working days of the workman because he had worked during this period on stay order granted by High Court of Himachal Pradesh in a writ petition which was, later on, dismissed on merits.

Any stay order granted by any Court is effective, even if, the writ petition or the case in which it is passed is dismissed on merits, unless a specific order regarding the stay order is not passed by such Court. It is not the contention of the management that Hon'ble the High Court of Himachal Pradesh has passed any order regarding the period from 8-8-96 to 30-11-96. Accordingly, on the basis of judicial propriety, the period from 8-8-96 to 30-11-96 shall be counted while calculating the working days of

the workman, even if, the writ under which the stay order was passed was dismissed, later on, on merits. As stated earlier, if this period is counted, the workman had worked 262 days in the preceding year from the date of his termination.

I will discuss the effects of completing 240 days of work after discussing the second contention of the workman on violation of right to priority on job of retrenched employee. It is the contention of the workman that Rakesh Kumar was appointed as Beldar on daily waged basis w.e.f. June 1997. The evidence of parties make it clear that Sh. Rakesh Kumar was not the fresh appointee but he was already working with the bank and as per the letter No. 269-13/99 STN-II dated 25-8-2000, the copy of which is on record, Sh. Rakesh Kumar was reappointed as full time casual labour. So, no fresh person was appointed by the management on daily waged basis as beldar after the termination of the workman from the services. Thus, there was no violation of the right of priority of job of the workman as alleged by him.

Now, I have to consider the effect of failure of management for one month notice and retrenchment compensation before terminating the services of the workman. In this case, the facts are altogether different. The workman was appointed on daily waged basis temporarily. Admittedly, all the posts were to be filled in as per the procedure prescribed in the rules of department governing the parties. The workman was also given a chance to appear in the test (interview). The workman could not qualify the test. Thereafter, he challenged the decision of management for decline of post, before Hon'ble the High Court of Himachal Pradesh at Shimla. He also challenged the process of selection by a writ petition filed in Central Administrative Tribunal. In both of the attempts, workman failed and the writ petition before the High Court and petition preferred by him before Central Administrative Tribunal were dismissed on merits. Thus, this Tribunal has nothing to say on the selection process and the criteria for selection made by the management under the rules. In *Uma Devi Vs. State of Karnataka*, (2006) 4 Supreme Court Cases Page 1, Hon'ble the Supreme Court of India has stressed that preference should be given for the regular appointment and a temporary workman has no right to any post. The only right any temporary workman has, is right to appear in the test (interview). The workman appeared and could not qualify. Thus, after selection of all the candidates against the regular vacancies, there was no work left for the workman and he was rightly disengaged from the services. As stated earlier, the workman has no right to post and he was given the opportunity of being heard in selection process for the regular appointments. Thus, there is no violation of any of the provisions mentioned in Section 25-H and F of the Industrial Disputes Act, while terminating the services of the workman. The reference

is disposed of accordingly. Central Government be informed. File be consigned.

G.K. SHARMA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2008

का.आ. 101.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान संस्थान के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 127, 121, 125, 123/98 तथा 11, 13/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल 42012/100, 94, 98, 96/97-आई आर (डी यू)]

[सं. एल 42012/116, 113/98-आई आर (डी यू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 127, 121, 125, 123/98 & 11, 13/99) of the Central Government Industrial Tribunal-cum Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Agriculture Research Institute and their workman, which was received by the Central Government on 22-12-2008.

[No. L-42012/100, 94, 98, 96/97-IR (DU)]

[No. L-42012/116, 113/98-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-1, CHANDIGARH**

Case I. D. Nos. : 127/98, 11/99, 13/99, 121/98,
125/98, 123/98

- (1) Shri Om Parkash S/o Shri Nirmal Singh, Vill. and P. O. Baldi, Teh. and Distt. Karnal-132001.
- (2) Shri Ajmer S/o Shri Krishan Lal, Vill. Ghogharipur, P.O. : Khash, Distt. Karnal-132001.
- (3) Shri Rajinder Kumar S/o Shri Kailash Ram, R/o Shanti Nagar, Gali No. 9, Plot No. 19, H. No. 1588, Karnal-132001.
- (4) Shri Ram Pal S/o Shri Ruda Ra, Vill. and P. O. Baldi, Teh. and Distt. Karnal-132001.

(5) Shri Mulak Raj S/o Shri Data Ram, C/o Shri Hari Ram, S/o Nanu Ram, Vill. and P. O. : Baldi, Teh. and Distt. Karnal-132001.

(6) Smt. Angoori Devi W/o Shri Brahma, Vill. and P. O., Teh. and Distt. Karnal-132001.

... Applicants

Versus

The Head, Indian Agriculture Research Institute, Karnal-132001. ... Respondent

APPEARANCES :

For the workman : Sri Sandeep Bhardwaj

For the management : Sri R. K. Sharma

AWARD

Passed on 2-12-2008

Government of India referred six industrial disputes of common nature for judicial adjudication to this Tribunal namely I.D. No. 127/98, Shri Om Parkash Vs. I.A.R.I., Ref. No. L-42012/100/97/IR (DU), dated 24.6.98, I.D. No. 11/99, Shri Ajmer Vs. I.A.R.I., Ref. No. L-42012/116/98/IR (DU), dated 30.11.98, I.D. No. 13/99, Shri Rajender Kumar Vs. I.A.R.I., Ref. No. L-42012/113/98/IR (DU), dated 30.11.98, I.D. No. 121/99, Shri Ram Pal Vs. I.A.R.I., Ref. No. L-42012/94/97/IR (DU), dated 24.6.98, I.D. No. 125/98, Shri Mulak Raj Vs. I.A.R.I., Ref. No. L-42012/98/97/IR (DU), dated 24.6.98, I.D. No. 123/98, Shri Anguri Devi Vs. I.A.R.I., Ref. No. L-42012/96/97/IR (DU), dated 24.6.98. The common questions of law and facts are involved in all the references, hence, all the references are hereby disposed of by a common award. I.D. No. 11/99 Shri Ajmer Singh Vs. I.A.R.I. shall be the leading file in which the award is passed and the copy of the award shall be placed in rest of the references.

The main question for determination in all these references is whether the action of the management IARI, Karnal by not giving chance to the workmen for their re-engagement and re-engaging their juniors into employment is legal and justified? If not, to what relief the workmen are entitled?

The common case of all the workmen, which gave the occasion for raising these industrial disputes, is that all the workmen worked with the management of respondent for different times and dates. Suddenly, they were not permitted to work with the department in violation of the provisions of the Industrial Disputes Act. Thereafter, ignoring the seniority of workmen, 47 daily-paid labourers were appointed by the management in violation of Sections 25F, 25G, and 25H of Industrial Disputes Act. All the workmen were also entitled for work but no heed was given to their request. Their juniors were illegally provided the work and on the repeated request,

they were not provided any work. The workmen have prayed for their reinstatement into the job with full back wages.

The management of respondent appeared before this Tribunal and filed the written statement on similar facts in all the files. The management raised a preliminary objection that the Indian Council for Agriculture Research, New Delhi is a society registered under the Societies Registration Act, and on the basis of the activities carried on, it is not an industry. On merits, it is alleged by the management of respondent that in the year 1993, it was decided by the Director, IARI, New Delhi to maintain the seniority list of all the DPL's. Thereafter, an advertisement was made in three newspapers through DAVP vide letter No. 4-1/93/94/2827, dated 27-1-93, informing the general public that whosoever had worked with the respondents may apply for re-engagement by 20-8-93. Copies of the letter written to DAVP for advertisement and circular issued by the respondents is on record as R1 and R2. It is also the contention of the management that in pursuance of aforesaid notice/ advertisement, 54 persons have applied by due date and 47 daily paid workers were appointed. As no workmen had completed 240 days of work, they are not entitled for any relief under the Industrial Disputes Act.

All the workmen preferred to file the rejoinder with the contention that no advertisement was made in any of the newspapers. All the workmen are illiterate. There was no notice to them for such a scheme and the management arbitrarily on the policy of pick and choose provided with the job even to the juniors of the workmen.

The management has raised the preliminary objection that management of respondent is not an industry. I have heard learned counsels for the parties on this issue and pursued the written arguments placed by the parties and other materials on record.

The term 'industry' has been defined in Section 2 (j) of the Industrial Disputes Act, 1947, to mean any business, trade, undertaking, manufacture or calling or employers and includes any calling, services, employment, handicraft, or industrial occupation or avocation of workmen.

In Bangalore Water Supply case (supra), 7 Judges Bench of Hon'ble the Apex Court has defined the word industry. As per the above mentioned verdict of the Apex Court, term 'industry' has been defined in Sub-section 2 (j) in a wide import as :

- (a) where there is (i) systematic activity, (ii) organized by cooperation between employer and employee (the direct and substantial element is chimerical), and (iii) for the production and/ or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual

or religious but inclusive of materials things or services geared to celestial bliss), prima facie, there is an industry in the enterprise.

- (b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.
- (c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- (d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Thus, the test (especially triple test) referred by Hon'ble the Apex Court in Bangalore Water Supply case (supra) are necessary to qualify any institution to be an industry.

Regarding the sovereign functions, Hon'ble the Apex Court in Bangalore Water Supply case (supra) held that sovereign functions strictly understood alone qualified exemption, not the welfare activities or economic adventures undertaking by Government or statutory bodies. Even in departments discharging sovereign functions, if there are units which are industries and they are substantially several then they can be consider to come within section 2(j) of the Act, in the definition of 'industry'.

Thus, the decision whether the particular organization is an industry or not is to be taken by the work done and business carried on by it, which absolutely depends on the facts and circumstances of each case. Admittedly, as it is clear from the rules and regulations and memorandum of association of the ICAR, the main work of the management is as follows :

- (a) To undertake, aid, promote, and co-ordinate agricultural and animal husbandry education, research and its application in practice, development and marketing in India and its Protectorates and any other areas in or in relation to which the Government of India has and exercises any jurisdiction by treaty, agreement, grant usage, sufferance or other lawful means by all means calculated to increase secure its adoption in every day practice.
- (b) To act as a clearing house of information not only in regard to research but also in regard to agricultural and veterinary matters generally.
- (c) For purposes of the society to draw and accept and make and endorse discount and negotiate Government of India and other promissory notes, bills of exchange, cheques or other negotiable instruments.

- (d) To invest the funds of, or money entrusted to, the society upon such securities or in such manner as may from time to time be determined by the Governing Body and from time to time to sell or transpose such investments.
- (e) To purchase, take on lease, accept as a gift or otherwise acquire, any land or building, wherever situate in India which may be necessary or convenient for the society.
- (f) To construct or alter any building which may be necessary for the society.
- (g) To sell, lease, exchange and otherwise transfer all or any portion of the properties of the society.
- (h) To establish and maintain a research and reference library in pursuance of the objects of the society with reading and writing rooms and to furnish the same with books, reviews, magazines, newspapers and other publications.
- (i) To do all other things as the society may consider necessary, incidental or conducive to the attainment of the above objects.

On the basis of the activities carried on by the management of respondent, it is argued that the activities of the management are similar to the physical research laboratory and the physical research laboratory has been held not to be an 'industry' in *Physical Research Laboratory Vs. KG Sharma*, 1997, (3) RSJ 215.

I have gone through the entire materials on record. The activities as mentioned above carried on by the management of ICAR are not similar that of the Physical Research Laboratory. The management has also supplied the copies of mission, mandate and objectives, which also contain the detailed description of the activities carried on by ICAR. On the basis of the activities carried on by the ICAR, I am of the view that the respondent is not carrying on only the research work, which comes under the exemption of term industry, as the sovereign functions. As per the law laid down by Hon'ble the Apex Court in *Bangalore Water Supply Case* (supra) even in departments discharging sovereign functions, if there are units which are industries and they are substantially several, it may qualify for the industry. Thus, on the basis of the activities carried on and work done by the management of respondent, I am of the view that the respondent ICAR is the 'industry'.

From the nature of reference, it is clear that this Tribunal has not been entrusted by the Central Government to adjudicate the matter of appointment and retrenchment of all the workmen. The Tribunal is entrusted only to adjudicate, whether any opportunity was provided to the workmen while preparing the seniority list for the purpose of providing work amongst the persons

who had ever worked with the department. The duty of this Tribunal further extended to adjudicate on violation of right of the workmen relating to priority of work.

It is the contention of the management that the policy regarding the maintenance of seniority list was advertised in the newspapers. No newspaper, containing the advertisement was filed by the management. The management failed to mention the names of newspapers and dates of publication in the newspapers in its pleadings and evidence. The witness of the management, Shri I. P. Gupta, has stated in his cross-examination that the advertisement was given in three newspapers but he failed to name the newspapers and to mention the date of publication.

It was a special fact to be proved by the management that the workmen, whose claims are being adjudicated in these references, were served proper and adequate notice for preparing the seniority list so that they could have applied for the work. The management has utterly failed to prove that any advertisement was published in any of the newspapers as alleged. The management has also failed to prove that notice by registered post or otherwise were sent to the workmen before preparing and maintaining the seniority list in compliance of the policy adopted by the management. The language of model advertisement (specimen) which is on record, shows that it was pasted on the notice board and no other action was taken by the management regarding the service of notice upon the persons who had ever worked with the management for the purpose of maintaining seniority. It was the duty of the respondent of management to inform to all the persons who had ever worked with the department by all possible sources to ensure the proper and effective notice. Even if, one person was left unnoticed, it would have amounted to an infringement of his right of natural justice.

It was a good move by the management for maintaining the seniority for the betterment of workmen, but, it was implemented in a wrong manner.

After maintaining the seniority, few persons, raised the industrial dispute that they have not been informed properly before maintaining seniority. It is the admitted case that during the conciliation proceedings a settlement was made between the management and the person whose name was not included in the previous list. It was decided that a separate seniority list will be maintained by the department and according to that seniority the work will be provided to the persons. But the management was satisfied by maintaining the second seniority list without fulfilling the another condition for providing the job to any of the workmen from the second list. The seniority list prepared by the management without proper information to all the persons contained the name of certain persons who are juniors to the workmen in

violation of the right of priority on job protected under the Industrial Disputes Act. It is admitted by the management that some juniors to the workmen are working.

Unfortunately, this Tribunal also take abnormal time of 10 years for disposal of these references and during these 10 years the management has not provided the work to any of the persons from the second list. Thus, the preparation and maintenance of second list was just a face wash by the management without any intention to provide the work to any of the persons from second list. Accordingly, the management has violated the right of priority of work protected by Industrial Disputes Act, of all the workmen because there was no proper notice to any of the workmen when the first list was prepared and the management has not provided the work to any of the workmen from the second list. There is no weight in the contention of the management that the workmen had not applied as per the advertisement because there was no notice of the alleged advertisement to any of the workmen and management prepared the previous list without proper circulation of the scheme amongst the persons who had ever worked with the management.

Another question before the Tribunal is how the violation of rights of the workmen should be remedied? In my opinion, the remedy lies in the direction that management should prepare only one list and if any of the workmen from the second list is found senior to the workmen who are provided the work from list one, they should be provided the work immediately. The act of management by maintaining a second list with assurance to provide the work to the workmen, is an indirect admission of laches in publication of advertisement of the scheme and service of notice upon them. Accordingly, the management is directed to maintain one list at the place of two, and, if any workmen are found senior to the workmen who are working with the management, the management if further directed to reinstate them without the back-wages within one month from the date of publication of this award. The references are disposed of accordingly. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2008

का. आ. 102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, केन्द्रीय पशु प्रजनन केन्द्र के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट (संदर्भ संख्या 07/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2008 को प्राप्त हुआ था।

[सं. एल-42012/118/1996-आई आर (डी यू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd December, 2008

S.O. 102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bikaner as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Cattle Breeding Farm and their workman, which was received by the Central Government on 23-12-2008.

[No. L-42012/118/1996-IR (DU)]

AJAY KUMAR, Desk Officer

अनुबंध

औद्योगिक विवाद अधिकरण, बीकानेर

पीठासीन अधिकारी : डॉ. वीरन्द्र कुमार माथुर, आर. एच. जे. एस.

नं. मु. केन्द्रीय औद्योगिक विवाद प्रसंग सं. 7 सन् 1997

श्रीमती रामेश्वरीदेवी पत्नी श्री रामजस, कर्मचारी केन्द्रीय पशु प्रजनन केन्द्र सूरतगढ़—जरिये केन्द्रीय पशु प्रजनन, केन्द्र कर्मचारी यूनियन (इंटक) सूरतगढ़ मार्फत—श्री भारतभूषण आर्य, महामंत्री बीकानेर डिविजन ट्रेड यूनियन काऊन्सिल। खजांची बिल्डिंग बीकानेर।

प्रार्थी/श्रमिक

विरुद्ध

संचालक, केन्द्रीय पशु प्रजनन केन्द्र, पो. भगवानसर तहसील सूरतगढ़ जिला श्री गंगानगर —अप्रार्थी/नियोजक

प्रसंग अन्तर्गत धारा 10(1)(घ), औद्योगिक विवाद अधिनियम, 1947

उपस्थिति :

1. श्री हेमराम चौधरी, अधिवक्ता, प्रार्थी पक्ष के लिये
2. श्री नरेश श्रीमाली, अधिवक्ता, अप्रार्थी नियोजक के लिये

“अधिनिर्णय”

दिनांक : 12 अगस्त, 2008

भारत सरकार के श्रम मंत्रालय नई दिल्ली द्वारा “औद्योगिक विवाद अधिनियम, 1947” जिसे आगे चलकर संक्षेप में केवल अधिनियम कहा जाएगा, की धारा 10 की उप-धारा (1) के खण्ड (घ) के अधीन जारी अधिसूचना क्रमांक एल-42012/118/96-आई. आर. (डी यू) दिनांकित 2-7-97 के द्वारा प्रेषित इस प्रसंग के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधिकरण में भेजा गया था :

“Whether the Central Cattle Breeding Farm, Suratgarh, Distt. Ganganagar is an industry being the establishment of Govt. of India, Ministry of Agriculture, Deptt. of Animal Husbandry and Dairying Centre Suratgarh, Distt. Sri Ganganagar ?

"Whether the action of the management of Central Cattle Breeding Farm, Suratgarh Distt. Sri Ganganagar is justified in terminating the services of Smt. Rameshwari Devi, daily rated workman w.e.f. 8-9-89 ? If not, what relief to the workman is entitled and from what date ?"

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया, पक्षकारों द्वारा अपने-अपने लिखित अभिवचन पेश किये गये हैं अर्थात् प्राथिनी श्रीमती रामेश्वरी देवी की ओर से उसकी यूनियन द्वारा प्रस्तुत क्लेम आवेदन का जवाब अप्राथी नियोजक पक्ष द्वारा दिया गया है, माननीय राजस्थान उच्च न्यायालय के आदेश दिनांक 26-10-2007 के अनुसरण में अप्राथी नियोजक ने अपना संशोधित जवाब दावा भी पेश किया है।

3. संक्षेप में, प्रकरण के साक्ष्य इस प्रकार से बतलाये गये हैं कि प्राथिनी श्रीमती रामेश्वरी देवी (जिसे आगे चलकर बेवा प्राथिनी श्रमिका कहा गया है) के द्वारा इस आशय का क्लेम आवेदन पेश किया गया है कि प्राथिनी श्रमिका ने अपनी इस सेवा समाप्ति के विवाद को अपनी विभागीय प्रतिनिधि यूनियन जिसकी वह सदस्य थी—केन्द्रीय पशु प्रजनन एवम् चारा उत्पादन केन्द्र कर्मचारी यूनियन (इंटक) सूरतगढ़ के माध्यम से उठाया और बाद में इस यूनियन द्वारा अपने क्षेत्रीय श्रम संगठन बीकानेर डिवीजन ट्रेड यूनियन काउन्सिल बीकानेर को सौंप दिया जिसके माध्यम से यह क्लेम प्रस्तुत किया गया है और यह बताया गया है कि प्राथिनी श्रमिका की प्रथम नियुक्ति 1-5-1984 को अप्राथी नियोजक के अन्तर्गत हुई तथा उसने 20-5-1989 तक निरन्तर बिना किसी व्यवधान के कार्यरत रहकर कार्य किया है, तत्पश्चात् श्रमिका के बीमार हो जाने के कारण वह दिनांक 21-5-89 से 7-9-1989 तक बीमारी के अवकाश पर 110 दिन के लिये गई थी तथा बाद इलाज ठीक हो जाने पर बीमारी व स्वास्थ्य प्रमाणपत्र सहित दिनांक 8-9-89 को अपनी इयूटी पर हाजिर हो गयी और बीमारी एवम् स्वास्थ्य प्रमाणपत्र राजकीय चिकित्सालय का नियोजक के समक्ष पेश कर दिया तथा काम पर लिया जाने का निवेदन किया क्योंकि अवकाश पर जाते समय अवकाश प्रार्थनापत्र देकर गई थी जो स्वीकृत किया जा चुका था लेकिन नियोजक ने उपस्थिति रिपोर्ट व दोनों प्रमाणपत्र लेने के बाद भी उसे काम पर नहीं लिया और ना ही किसी प्रकार की कोई सूचना दी, लिखित या जुबानी कोई कारण भी नहीं बताया, अप्राथी के इस कृत्य अर्थात् 5 साल की लगातार सेवाओं के बाद बीमारी के अवकाश पर जाने व बीमारी और स्वास्थ्य प्रमाणपत्र पेश करने पर भी काम पर नहीं लेने को अनुचित एवम् गैर कानूनी बतलाते हुए इसे अपनी छंटनी किया जाना और काम पर नहीं लेने का कोई भी कारण लिखित या जुबानी नहीं बतलाये, एक माह का नोटिस अथवा नोटिस वेतन व छंटनी मुआवजा आदि कुछ भी नहीं दिया जाना और किसी प्रकार की न्यायिक कार्यवाही नहीं किये जाने के कारण तथा अधिनियम की धारा 25-एफ तथा धारा 25 बी, एफ, जी, एच का उल्लंघन करने से अपनी इस सेवामुक्ति को छंटनी को नितान्त गैर कानूनी बतलाते हुए आगे यह भी अंकित किया है कि प्राथिनी अपने नियोजन काल में एक वर्ष व 240 दिन से अधिक अवधि पूरी कर चुकी थी क्योंकि वह दिनांक 1-5-84 से 21-5-89 तक निरन्तर कार्यरत रही फिर विधिसम्मत बीमारी के अवकाश पर गई थी जिसे वापिस आने पर काम पर नहीं लिया गया है

और कुल सेवा अवधि एक वर्ष व 240 दिन से ज्यादा होने से वह एक औद्योगिक कामगार थी तथा औद्योगिक विवाद समस्त प्रावधानों का लाभ पाने की हकदार है। अंत में समस्त देय लाभों सहित वापिस काम पर सवेतन बहाल करने की प्रार्थना के साथ यूनियन व प्रार्थियों को खर्चा मुकदमा भी दिलाये जाने की प्रार्थना की गयी है।

4. प्रारंभ में दिनांक 21-10-97 को अप्राथी नियोजक ने प्रस्तुत अपने जवाब दावे में प्रकरण का प्रतिवाद करते हुए यह अंकित किया कि प्राथिनी एक आकस्मिक दैनिक वेतन भोगी श्रमिक थी जो समय-समय पर फसलों के समय कुछ अर्से के लिये फार्म पर काम करने आती थी और काम खत्म हो जाने के बाद वापिस चली जाती थी उसने कभी भी 240 दिन लगातार काम नहीं किया, प्राथिनी ने न तो किसी अवकाश के लिये प्रार्थनापत्र दिया और न कोई स्वीकृति नियोजक ने दी और न ही कोई स्वास्थ्य प्रमाणपत्र नियोजक के समक्ष पेश किया गया। सितंबर 1989 के बाद कभी भी काम पर नहीं आयी। औद्योगिक विवाद अधिनियम के प्रावधान लागू नहीं होते हैं। आगे अतिरिक्त आपत्तियों में यह भी अंकित किया है कि केन्द्रीय पशु प्रजनन फार्म सूरतगढ़ भारत सरकार का एक विभाग है जो कृषि मंत्रालय के अधीन काम करता है वह उद्योग नहीं है, इसका प्रमुख कार्य धारपारकर नस्ल के उन्नत किस्म के सांड व बछड़े वैज्ञानिक व तकनीकी विधि से पैदा करना है इसके नियम केन्द्रीय सरकार के बनाये हुए हैं इसलिये इस पर औद्योगिक विवाद अधिनियम लागू नहीं है, 1-9-93 तक जो मजदूर फार्म के रोल पर थे उनकी एक सूची बनाई गई और उनको टैम्पेरी स्टेटस दिया गया था। प्राथिनी ने इसका अनुचित फायदा उठाने के लिये यह क्लेम पेश किया है, प्राथिनी गाँव भगवानसर की रहने वाली है जो कि फार्म से लगभग दो किलोमीटर की दूरी पर है वह कभी भी आकर डिमान्ड कर सकती थी लेकिन उसने ऐसा नहीं किया अब वह क्लेम पेश करने की अधिकारिणी नहीं है क्योंकि फार्म ने आकस्मिक दैनिक वेतन श्रमिक 1993 से रखना बन्द कर दिया है। अंत में स्वयं के विकरल क्लेम खारिज करने की प्रार्थना की गयी है।

अप्राथी नियोजक को वांछित संशोधन की अनुमति नहीं दिये जाने वाले इस न्यायालय के आदेश दिनांक 24-4-2001 को चुनौती दिये जाने के पश्चात् माननीय राजस्थान उच्च न्यायालय द्वारा दिनांक 26-10-2007 को पारित आदेश के अनुसरण में अप्राथी नियोजक द्वारा दिनांक 14-1-08 को अपना संशोधित जवाब दावा पेश करते हुए यह भी कथन किया कि प्राथिनी ने कभी भी लगातार काम नहीं किया, काम समाप्त होने से पूर्व वह स्वयं काम छोड़कर चली जाती थी, प्राथिनी का यह कथन कि उसने दिनांक 1-5-84 से 20-5-89 तक निरन्तर कार्य किया था सर्वथा असत्य है, उसने कभी भी लगातार कार्य नहीं किया और ना ही उसने दिनांक 8-9-89 से विगत एक वर्ष में 240 दिवस कार्य किया, और आगे यह भी अंकित किया कि प्राथिनी बिना किसी सूचना के माह मई 1989 में दिनांक 28-5-89 से ही कार्य छोड़कर चली गयी और उसने कार्य पर नहीं आने की कोई सूचना नहीं दी। विशेष कथनों में यह भी अंकित किया है कि प्राथिनी ने यह प्रकरण छंटनी के रूप में प्रस्तुत किया है जबकि यह प्रकरण छंटनी का न होकर उसके स्वयं के कार्य छोड़कर चले जाने का है, आकस्मिक श्रमिक स्वयं बिना किसी सूचना के कार्य छोड़कर चले जाने हेतु स्वतंत्र

होते हैं, प्रार्थिनी द्वारा प्रस्तुत इस विवाद को खारिज करने की प्रार्थना करते हुए यह भी अंकित किया है कि जब अप्रार्थी विभाग उद्योग की श्रेणी में नहीं आता है तथा उसकी कोई छंटनी नहीं की गयी है अतः वह किसी भी राहत व राशि को पाने की अधिकारिणी नहीं है।

5. पक्षकारों द्वारा प्रस्तुत साक्ष्य के दौरान प्रार्थी पक्ष की साक्ष्य में स्वयं प्रार्थिनी श्रीमती रामेश्वरी देवी ने अपना शपथपत्र पेश किया है जिसके खण्डन में अप्रार्थी पक्ष की ओर से मांगीलाल मीणा का शपथपत्र पेश हुआ है, प्रत्येक पक्ष द्वारा प्रस्तुत एक-दूसरे पक्ष के साक्षी से जिरह की गयी है और प्रलेखीय साक्ष्य भी पेश की गयी है।

6. विद्वान पक्षकारों की बहस सुनी गयी और पत्रावली का ध्यानपूर्वक अवलोकन किया गया, हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचाराधीन प्रश्न यही है कि क्या अप्रार्थी केन्द्रीय पशु प्रजनन फार्म सूरतगढ़ एक उद्योग है? क्या अप्रार्थी द्वारा 8-9-89 से श्रीमती रामेश्वरी देवी दैनिक वेतनभोगी की सेवा समाप्त करना उचित है यदि नहीं तो श्रमिका किस तारीख से क्या राहत प्राप्त करने की अधिकारिणी है?

7. पत्रावली पर आयी समस्त साक्ष्य का ध्यानपूर्वक अवलोकन करने से यह स्पष्ट है कि प्रार्थी पक्ष की ओर से प्रस्तुत साक्षी स्वयं प्रार्थिनी श्रमिका का शपथपत्र पर कथन है कि उसकी प्रथम नियुक्ति अप्रार्थी संस्थान में केन्द्रीय पशु प्रजनन केन्द्र, सूरतगढ़ में दिनांक 1-5-1984 को हुई थी और वह जानवरों गावों व बछड़ों की देखभाल व चारा डालने व उनके बांधने के स्थान की देखभाल व सफाई आदि का काम करती थी, दिनांक 20-5-89 तक निरन्तर 5 वर्ष कार्य किया है और वह दिनांक 21-5-89 से दिनांक 7-9-89 तक बच्चा होने के कारण बीमारी के कारण अवकाश पर गयी थी, छुट्टी का प्रार्थनापत्र देकर गई व मंजूर करवाकर गई थी और दिनांक 8-9-89 को जब अपने काम पर हाजिर हुई तो उसे काम पर नहीं लिया गया और कहा कि उसकी जगह पर दूसरा आदमी लगा लिया है जबकि उसने एक प्रार्थनापत्र हाजरी व राजकीय चिकित्सालय सूरतगढ़ का चिकित्सा एवम् फिटनेस प्रमाणपत्र भी पेश किया था जो लेने से इन्कार कर दिया जो प्रार्थनापत्र व प्रमाणपत्र प्रदर्श डब्ल्यू 1 व 2 है जिन पर ए से बी मेरा अंगूठा लगा है, उसका यह भी कथन है कि उसने अपना केस विभागीय फार्म यूनियन के श्री रामप्यारेलाल यादव अध्यक्ष की मार्फत उठाया था और वह शुरू से ही यूनियन की सदस्य थी। प्रतिपरीक्षण में इस गवाह ने स्वयं का दैनिक मजदूरी पर कार्य करना बतलाते हुए यह सही होना कहा है कि वह 28-5-1989 से कार्य छोड़कर चली गयी थी, और इस तारीख को कार्य छोड़ने से पहले लिखित में कोई सूचना नहीं दी थी। प्रतिपरीक्षण में ही आगे पूछने पर वह यह भी कहती है कि यह कहना गलत है कि उसे नौकरी से नहीं हटाया, उसे किस महीने में हटाया याद नहीं है तथा वर्ष भी याद नहीं है तारीख 21 थी।

इसी सम्बन्ध में अप्रार्थी नियोजक की ओर से प्रस्तुत साक्षी मांगीलाल मीणा द्वारा प्रस्तुत अपने शपथपत्र पर मुख्य परीक्षण के बयान में नियोजक द्वारा न्यायालय में दिनांक 14-1-08 को प्रस्तुत संशोधित जवाब दावे में वर्णित तथ्यों की पुनरावर्ती करते हुए यह कथन करता है

कि प्रार्थिनी ने 1-5-84 से 20-5-89 तक निरन्तर कार्य करने का असत्य कथन किया है और उसने दिनांक 8-9-89 से विगत एक वर्ष में 240 दिवस कार्य नहीं किया है, प्रार्थिनी कभी भी बीमारी के कारण अवकाश पर नहीं गयी थी, प्रार्थिनी ने कभी भी अवकाश के लिये प्रार्थनापत्र नहीं दिया और ना ही अप्रार्थी ने कभी भी उसे अवकाश की स्वीकृति दी थी, प्रार्थिनी ने कभी भी स्वास्थ्य प्रमाणपत्र अप्रार्थी के समक्ष प्रस्तुत नहीं किया। आकस्मिक श्रमिक कभी भी कार्य छोड़कर जाने हेतु स्वतंत्र होते हैं, उन्हें अवकाश लेने की कोई आवश्यकता नहीं होती है, नाही कैज्युअल लेबर के लिये अवकाश का कोई प्रावधान ही है, गवाह के अनुसार प्रार्थिनी बिना किसी सूचना के माह मई 1989 में दिनांक 28-5-1989 से ही कार्य छोड़कर चली गयी और उसने कार्य पर नहीं आने की कोई सूचना नहीं दी। आगे यह भी कथन किया है कि अप्रार्थी संस्थान भारत सरकार का एक विभाग है जो कृषि मंत्रालय के अधीन कार्य संपादित करता है, इसका प्रमुख कार्य यारपारकर नस्ल के उन्नत नस्ल के सांड व बछड़े वैज्ञानिक व तकनीकी विधि से पैदा करना है इस राजकीय विभाग द्वारा लाभार्जन हेतु कोई कार्य संपादित नहीं किया जाता है बल्कि ऐसे कार्य पूर्णतया सरकार की नीतियों के क्रियान्वयन करने के लिये जन कल्याण की दृष्टि से संपादित किये जाते हैं, ऐसे कार्यों को राष्ट्र का सोवर्न वर्क माना गया है और सोवर्न वर्क करने वाले विभाग को औद्योगिक विवाद अधिनियम के अन्तर्गत कतई उद्योग नहीं माना जा सकता है, उक्त गवाह ने साक्ष्य के दौरान माह 9/89 से विगत एक वर्ष माह 9/88 तक की अवधि के अप्रार्थी संस्थान में जारी शुदा समस्त मस्टररोल प्रदर्श एम-4 से 33 प्रस्तुत किये हैं और भारत सरकार के आदेशानुसार वर्ष 1993 से ही आकस्मिक श्रमिकों को अप्रार्थी फार्म पर लगाये जाने पर प्रतिबन्ध प्रभावी होने बाबत आदेश प्रदर्श एम-1 तथा कैज्युअल लैबर्स को टैम्प्रेरी स्टेटस देने सम्बन्धी भारत सरकार का आदेश प्रदर्श एम-2 व 1993 तक कार्यरत श्रमिकों की सूचि प्रदर्श एम-3 बनाई जाकर उन्हें टैम्प्रेरी स्टेटस दिये जाने का कथन किया है।

पत्रावली पर प्रस्तुत दस्तावेज प्रदर्श डब्ल्यू 1 प्रार्थिया द्वारा नियोजक को दिनांक 8-9-1989 को दिया गया प्रार्थना पत्र है जिसके संलग्न प्रदर्श डब्ल्यू 2 प्रमाणपत्र राजकीय चिकित्सक द्वारा जारी कथित चिकित्सा व फिटनेस प्रमाणपत्र है, यह दोनों दस्तावेज अधिकरण में फोटों प्रतियों के रूप में पेश किये गये हैं, इनका अवलोकन करने से यह स्पष्ट है कि इनमें से किसी में भी प्रार्थिया के द्वारा किये गये कथन कि बच्चा होने के कारण बीमारी के अवकाश पर जाने के तथ्य की पुष्टि नहीं होती है, स्वयं प्रार्थिया अपनी साक्ष्य में 21-5-89 से दिनांक 7-9-89 तक बच्चा होने के कारण बीमारी के अवकाश पर छुट्टी का प्रार्थनापत्र देकर छुट्टी मंजूर करवाकर जाने का कथन करती है परन्तु अपने इस कथन की पुष्टि में ऐसी कोई दस्तावेजी साक्ष्य पेश नहीं की है और प्रतिपरीक्षण में पूछने पर यह सही होना कहता है कि "मैं 28-5-1989 से कार्य छोड़कर चली गयी थी, यह भी सही है कि मैं इस तारीख को कार्य छोड़ने से पहले लिखित में कोई सूचना नहीं दी थी" अर्थात् अवकाश पर जाने के पूर्व प्रार्थनापत्र देकर अवकाश मंजूर करवाकर जाने बाबत प्रार्थिया ने अपने क्लेम आवेदन व साक्ष्य के दौरान प्रस्तुत अपने शपथपत्र पर दिये मुख्य परीक्षण के बयान में मिथ्या कथन अंकित किये हैं, वह

अपनी सेवामुक्ति 8-9-89 से होना बतलाते हुए प्रतिपरीक्षण में पूछने पर यह भी कहती है कि उसे किस महिने व किस वर्ष में हटाया याद नहीं है परन्तु तारीख 21 थी; प्रार्थिया का यह कथन भी असत्य ही पाया जाता है क्योंकि प्रार्थिया के इस कथन की पुष्टि पत्रावली पर प्रस्तुत दस्तावेजात प्रदर्श एम-4 से 33 मस्टररोल से होनी नहीं पायी जाती है, स्वयं प्रार्थिया ने अपने प्रतिपरीक्षण के बयान में 28-5-1989 से कार्य छोड़कर चले जाने का तथ्य स्वीकार किया है और पत्रावली पर प्रस्तुत मास्टररोल प्रदर्श एम-13 जोकि माह मई 1989 का है जिसके अवलोकन से इस तथ्य की पुष्टि भी होती है कि इस मस्टररोल में अर्थात् माह मई 1989 में प्रार्थिया की उपस्थिति 28-5-89 तक दर्ज भी है ऐसी स्थिति में प्रार्थिया द्वारा 21-5-89 से सेवामुक्त करने का कथन अथवा 21-5-89 से 7-9-89 तक का 110 दिन का बच्चा होने के कारण बीमारी के अवकाश पर जाने का कथन भी विश्वसनीय प्रतीत नहीं होता है क्योंकि प्रथम तो उसकी हाजरी 28-5-89 तक की प्रमाणित हुई है, द्वितीय उसने कार्य छोड़ने से पहले लिखित में कोई सूचना नहीं देना भी स्वीकार किया है। प्रदर्श डब्ल्यू 1 व 2 के अवलोकन से भी बच्चा होने के कारण बीमारी के अवकाश पर जाने के तथ्य की पुष्टि भी नहीं होती है। इन परिस्थितियों में अप्रार्थी नियोजक द्वारा 8-9-89 को उसे कार्य पर नहीं लिये जाने के कृत्य को किसी भी रूप में अनुचित नहीं माना जा सकता है क्योंकि उसने 8-9-89 के पूर्व अवकाश पर जाना, अवकाश मंजूर करवाने आदि का तथ्य प्रमाणित नहीं किया है और इसी कारण उसका 8-9-89 तक अप्रार्थी के नियोजन में कार्यरत रहना ही प्रमाणित नहीं होता है। अपितु यह प्रमाणित होता है कि 28-5-89 के पश्चात् स्वयं कार्य पर उपस्थित नहीं होने से सेवामुक्ति हुई है। जहां तक अप्रार्थी संस्थान उद्योग की परिभाषा में आता है अथवा नहीं? यह भी एक विचारणीय प्रश्न था परन्तु इस सम्बन्ध में प्रार्थी पक्ष की ओर से तो अपने क्लेम आवेदन अथवा साक्ष्य के दौरान प्रस्तुत शपथपत्र पर कोई भी कथन नहीं किया है जबकि अप्रार्थी पक्ष की ओर से प्रस्तुत अपने जवाब दावे एवं साक्ष्य के दौरान यह स्पष्ट कथन किया गया है कि अप्रार्थी संस्थान केन्द्रीय पशु प्रजनन के फार्म सूरतगढ़ भारत सरकार का एक विभाग है और इस विभाग द्वारा लाभार्जन हेतु कोई कार्य संपादित नहीं किया जाता है बल्कि ऐसे कार्य पूर्णतया सरकार की नीतियों के क्रियान्वयन करने के लिये जन कल्याण की दृष्टि से संपादित किये जाते हैं, ऐसे कार्यों का राष्ट्र का सोवर्न वर्क माना गया है और सोवर्न वर्क करने वाले विभाग को औद्योगिक विवाद अधिनियम के अन्तर्गत उद्योग नहीं माना जा सकता है। अतः साक्ष्य के अभाव में विशेषकर जबकि प्रार्थी पक्ष द्वारा अप्रार्थी संस्थान के लाभार्जन के उद्देश्य बाबत कोई कथन नहीं किया है और नियोजक द्वारा लाभार्जन हेतु कोई कार्य संपादित नहीं किया जाना बतलाया है तो इस स्थिति में प्रथमदृष्टया अप्रार्थी संस्थान को औद्योगिक विवाद अधिनियम के

प्रावधानों के अर्थ में उद्योग माना ही नहीं जा सकता है। अप्रार्थी पक्ष की ओर से बहस के दौरान निम्न न्यायिक दृष्टान्त पेश किये गये हैं :

- (1) 2006 (3) एस.सी.टी. 472 = सुरेन्द्र नगर डिस्ट्रिक्ट पंचायत व अन्य बनाम गंगाबेन लालजी भाई व अन्य
- (2) 2006(3) एस.सी.टी. 481 = एसिस्टेंट इंजीनियर, सी.ए.डी., कोटा बनाम धानकंवर व अन्य

प्रस्तुत कर यह तर्क दिया है कि सन् 1989 में हुई कथित सेवामुक्ति का विवाद प्रार्थिया ने अत्यधिक देरी से उठाया है और इस विलम्ब का कोई युक्ति युक्त कारण भी नहीं दर्शाया है अतः इनमें प्रतिपादित सिद्धान्त के अनुसार 4-5 वर्ष की देरी के पश्चात् विवाद उठाये जाने और देरी का कोई कारण नहीं दर्शाने के आधार पर प्रार्थिया की इस सेवामुक्ति का विवाद नहीं रहा है और इस आधार पर भी प्रार्थिया कोई राहत प्राप्त करने की अधिकारिणी नहीं है।

8. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट जारी किया जाता है कि :—

- (1) अप्रार्थी संस्थान—“केन्द्रीय पशु प्रजनन फार्म, सूरतगढ़” प्रथमदृष्टया औद्योगिक संस्थान होना प्रमाणित नहीं होता है क्योंकि प्रार्थी पक्ष की ओर से क्लेम आवेदन व साक्ष्य के दौरान अप्रार्थी संस्थान का उद्देश्य लाभार्जन का होने बाबत कोई कथन नहीं किया गया है।
- (2) दिनांक 8-9-89 को अप्रार्थी द्वारा सेवामुक्त किया जाना प्रमाणित नहीं हुआ है और वह यह प्रमाणित नहीं कर सकी है कि दिनांक 8-9-89 से पूर्व दिनांक 21-5-89 से 7-9-89 तक के कथित अवकाश के सम्बन्ध में प्रार्थनापत्र देकर, अवकाश मंजूर करवाकर गयी हो, अतः कथित अवकाश उपभोग के पश्चात् उपस्थित होने पर उसे सेवा पर नहीं लिये जाने के कृत्य को उचित ही कहा जा सकता है। प्रस्तुत साक्ष्य से तो यह प्रमाणित हुआ है कि दिनांक 28-5-89 तक कार्य करने के पश्चात् उसके स्वयं के कार्य पर उपस्थित नहीं होने के कारण उसकी यह सेवामुक्ति होनी पायी जाती है। अतः प्रार्थिया कोई भी राहत व राशि अप्रार्थी से प्राप्त करने की अधिकारिणी नहीं है।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अन्तर्गत प्रकाशनार्थ राज्य सरकार को भेजा जावे।

9. आज दिनांक 12-8-2008 को विवृत न्यायालय में सुनाई गई।

डॉ. वीरेन्द्र कुमार माथुर, न्यायाधीश

नई दिल्ली, 22 दिसम्बर, 2008

का.आ. 103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, इरनाकुलम के पंचाट (संदर्भ सं. 85/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल-12012/83/1999-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 22nd December, 2008

S.O. 103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of the Regional Manager, CB, Regional Office, and their workmen, received by the Central Government on 22-12-2008.

[No. L-12012/83/1999-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P.L. Norbert, B.A., LLB., Presiding Officer
(Friday the 26th day of September, 2008/4th Asvina, 1930
I.D. 85 of 2006

(I.D. 13/2001 of Labour Court, Ernakulam)

Workman : Shri K. Rajendra Prabhu,
C/o. Cochin Labour Union,
"Vastal", Krishnaswamy Road,
Cochin-682 035.

By Adv. H.B. Shenoy.

Management : The Regional Manager,
Corporation Bank,
Regional Office, M.G. Road,
Cochin-682 016.

By Adv. Nagendran.

This case coming up for final hearing on 22-9-2008, this Tribunal on 26-9-2008 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

"Whether the action of the management of Corporation Bank in terminating the service of

Sh.K. Rajendra Prabhu, Janatha Deposit Collector w.e.f. 14-02-1994 is legal and justified? If not, what relief the workman is entitled to?"

2. The facts of the case in brief are as follows:—
Sri. K. Rajendra Prabhu was appointed as Janatha Deposit Collector at Ravipuram Branch, Ernakulam of Corporation Bank in 1976. On 14-02-94 he was terminated from service on the ground that he had misappropriated money entrusted by Account holders of Janatha Deposit.

3. According to the claimant the action of the management is in violation of the provisions of Industrial Disputes Act. He was given neither retrenchment notice nor retrenchment compensation. He was not heard regarding the allegation in the notice. No enquiry was conducted. The disciplinary action was taken in violation of principles of natural justice. The termination is illegal and the claimant is entitled to be reinstated with all benefits.

4. According to the management the claimant was never a regular employee of the bank and he is not a workman. He was appointed as Janatha Deposit Collector on the basis of an agreement and his service is governed by Indian Contract Act. There is no master servant relationship between the parties. He was not recruited as per rules of the bank. There is no control over the claimant. No disciplinary jurisdiction also is vested in bank concerning deposit collectors. The claimant had given an admission statement to the bank. The bank had made a complaint to the police regarding misappropriation of money by the claimant. A notice of termination was sent by post to the address of the claimant, but returned stating that no such addressee was living in the address. Hence a paper publication was effected. The worker was absconding.

5. In the light of the above contentions the following points arise for consideration :

1. Is the claimant a 'workman'?

2. Is the termination legal?

3. Is the worker entitled for re-instatement?

The evidence consists of the oral testimony of MW 1 and documentary evidence of Exts.M 1 to M8 on the side of the management and no evidence on the side of the claimant.

6. Point No. 1: It is admitted that the claimant was a janatha deposit collector from 1976 to 14-02-94. The worker claims that he is a workman within the definition of S.2(s) of I.D. Act. But the learned counsel for the management strongly denies the same. It is to be noted that the issue has been set at rest by the Hon'ble Supreme Court in Indian Banks' Association v. Workmen of Syndicate Bank and others and connected appeals in JT-2001 (2) 542. The question whether janatha deposit collectors are workmen within the definition of S.2(s) of I.D. Act had arisen in I.D. 14/1980 of Industrial Tribunal, Hyderabad. By award dated 12-12-98 it was held that they are workmen within the definition. The management bank and the claimant were

also parties to that dispute. Banks including the management bank had challenged the award in Andhra Pradesh High Court. The award of Industrial Tribunal Hyderabad was upheld. The banks went up in special leave petitions before the Hon'ble Supreme Court. The Special Leave Petitions were dismissed by judgment dated 13-02-2001 confirming the judgment of High Court of Andhra Pradesh as well as the award of Industrial Tribunal Hyderabad. Therefore that issue cannot be agitated by the management once again in the present case.

7. However it was argued by the learned counsel for the management that there is difference between the decided case and the present case. According to the learned counsel in the cases decided by the Hon'ble Supreme Court the Deposit collectors were appointed as per appointment orders. Whereas in the instant case worker was appointed by virtue of an agreement. I don't think the contention is sustainable because it is seen from the Supreme Court judgment (which is produced by the management) that the management had contended before Industrial Tribunal, Hyderabad, Andhra Pradesh High Court and Hon'ble Supreme Court that the deposit collectors were engaged on the basis of a contract and the agreements were for specific periods. Having taken such a contention in the decided cases by banks including management bank they cannot be heard to say otherwise in this case. Besides a common issue regarding the status of deposit collectors had arisen in the Industrial Dispute 14/ 1980 of Industrial Tribunal Hyderabad and it encompassed appointment of deposit collectors in whatever mode they are appointed. Besides the judgment of the Hon'ble Supreme Court shows that most of the deposit collectors were appointed by agreements. Ext.M8 is an appointment order issued by management bank to another deposit collector. Condition No.10 of Ext.M8 is that the appointee shall execute an agreement in stamp paper incorporating the terms and conditions mentioned in the appointment order, if the terms are acceptable. Thus it is clear that management bank appoint deposit collectors on execution of agreements. Therefore it is unnecessary to go further into the issue, but suffice to say that it is decided by the Hon'ble Supreme Court that deposit collectors are workmen within the definition of S.2(s) of I.D. Act.

8. Point No.2:- The service of the workman was terminated w.e.f. 14-02-94 after issuing a notice. Since the notice could not be served by post it was published in the newspaper. Copies of newspaper are Exts.M6 and M7. According to the learned counsel for the workman the termination is not preceded by a notice under Section 25-F of I.D. Act. It is also contended that since he was terminated from service on the allegation of misappropriation of money he should have been given an opportunity of hearing and there should have been an enquiry before imposing the

penalty. It is no doubt true that the claimant being a 'workman' within the definition of S.2(s) of I.D. Act he is entitled to get a retrenchment notice under Section 25-F of I.D. Act as well as compensation provided he was in continuous service for a period of 240 days preceding retrenchment. None of the parties advanced an argument regarding continuous service. However it is an admitted fact that the workman was in service from 1976 to 1994. In the absence of a dispute regarding continuous service it can be presumed that he had worked as a deposit collector for a period of 240 days during 12 months preceding retrenchment. Therefore he was entitled for a notice under Section 25-F of I.D. Act. This was not complied with by the management. The termination therefore is illegal.

9. The contention of the learned counsel for the workman that no charge sheet was issued, no enquiry was conducted and he was not heard regarding the charge, it has to be said that the workman was appointed by virtue of an agreement. Condition No.7 of the terms of appointment (Ext.M8) is that the bank is free to terminate the agency of janatha deposit collector at any time without notice or assigning any reason what soever. The learned counsel for the workman argued that the agreement is unilateral and cannot bind the workman. The argument is not sustainable as the workman had with open eyes agreed to the terms at the time of appointment. He was free to execute an agreement or refrain from it after going through the terms made mention in Ext.M8. The issue that the contract is invalid and not binding on the deposit collectors was not raised before Industrial Tribunal, Hyderabad or High Court of Andhra Pradesh or Hon'ble Supreme Court. That is a novel argument put forward for the first time before this court and is barred by constructive resjudicata. One of the terms of agreement is that an employee can be terminated without notice or without assigning any reason. This empowers the management to retrench a janatha deposit collector without issuing a charge sheet or conducting an enquiry. Since the deposit collector, not being a regular employee, he is not governed by Bipartite Settlements or Rules of the bank and he is not subjected to the usual procedure of disciplinary action. It was not mandatory to hear the workman before terminating him from service because of the terms of agreement. It may be true as submitted by the learned counsel for the workman that the termination of the service is not a retrenchment simpliciter but on an allegation of misappropriation of money. Whatever be the reason, there is no question of assigning any reason or hearing the worker for the purpose of effecting retrenchment in view of the terms of agreement. However as observed above the bank was bound to follow the provision under Section 25-F of I.D. Act before terminating the workman from service. To that extent the termination is illegal.

10. Point No.3:- The workman claims re-instatement. I have found that S.25-F has not been complied with by the management. A notice is a condition precedent for

retrenchment. Violation of the said provision makes the retrenchment illegal. He was in service from 1976 to 1994. Whether the service was continuous as defined in S.25-B of the Act is a question of fact and no argument was advanced by either side regarding continuous service. However the fact remains that he was a janatha deposit collector from 1976 to 1994 and is not disputed by the management. If so he is entitled to notice under Section 25-F of I.D. Act. According to the management the workman had misappropriated an amount of Rs.3,08,850. Out of that Rs.90,500 was remitted after termination. There is a security deposit of Rs.85,010. Still a balance of Rs. 1,27,340 is outstanding from the workman on account of the misappropriation. In the circumstances it is not proper to order reinstatement as deposit collector nor is it mandatory in all cases to order reinstatement for violation of S.25-F of the Act. However he is entitled to one month's pay in lieu of notice as well as compensation as per S.25-F of I.D. Act.

In the result, an award is passed finding that the termination of service of the workman is in violation of S.25-F of I.D. Act and hence illegal to that extent and he is entitled for pay in lieu of notice and retrenchment compensation as per S.25-F(a) and (b) of I.D. Act.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 26th day of September, 2008.

P.L. NORBERT, Presiding Officer

APPENDIX

- Witness for the Workman - Nil
 Witness for the Management
 MW1 - 16-11-2007 - Shri K. Rajagopal.
 Exhibit for the Workman - Nil
 Exhibits for the Management
 M1 26-9-1998 - Copy of the format of power of attorney from the Management.
 M2 30-5-1995 - Letter dated 20-5-1995 from the workman to the management.
 M3 02-6-1995 - Letter dated 02-6-1995 from the workman to the management.
 M4 19-9-1995 - Copy of petition from the management to the C.I., Town South Police Station.
 M5 03-8-1995 - Letter sent by the management to the workman.
 M6 01-8-1995 - Advertisement in Newspaper (Malayala Manorama) dated 1-8-1995, by the management against the workman.
 M7 30-1-1996 - Advertisement in Newspaper (Malayala Manorama) dated 30-1-1996, by the management against the workman.

M8 05-8-1980 - Copy of letter No. SJDA/313 sent by the Management to Sri K.A. Gopal.

नई दिल्ली, 23 दिसम्बर, 2008

का.आ. 104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एल आई सी ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-2, मुम्बई के पंचाट (संदर्भ सं सी जी आई टी 2/36/1987) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-12-2008 को प्राप्त हुआ था।

[सं. एल-17011/1/1986-आई.डी.-IV(ए)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 23rd December, 2008

S.O. 104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/36/1987) of the Central Government Industrial Tribunal/Labour Court, No. 2, Mumbai, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of LIC of India, and their workmen, which was received by the Central Government on 22-12-2008.

[No. L-17011/1/1986-ID-IV (A)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2 MUMBAI

PRESENT : A.A. Lad, Presiding Officer

Reference No. CGIT-2/36 OF 1987

Employers in relation to the Management of Life Insurance Corporation of India

The Divisional Manager
 LIC of India
 Jeevan Tara
 Satara (Maharashtra State)

And their Workmen

The General Secretary
 Satara Division Insurance Workers' Organisation
 267, Bhavani Peth, Moti Chowk
 Satara 415 002. (Maharashtra State)

APPEARANCES

For the Employer : Ms. Lewis Representative

For the Workmen : No appearance.

Mumbai, dated 18th November, 2008.

AWARD

1. The Government of India, Ministry of Labour by its Order No. L-17011/1/1986-D. IV (A) dated 18-6-1987 in exercise of the powers conferred by clause (d) of sub-Section (1) and sub-section 2(A) of Section 10 of the I.D. Act, 1947 have referred the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of Life Insurance Corporation of India in refusing payment of overtime allowance w.e.f. 1-1-1975 to the Jeep and Mobile Van Drivers employed in their Satara Division for remaining on duty beyond 8 hours a day on the grounds that intermittent gaps between spells of driving should be excluded from the duty hours is justified and legal? If not, to what relief are the concerned workmen entitled?”

2. This reference was decided by this Tribunal on 11-6-1993. Writ was filed by the first party before the Hon'ble High Court WP No. as 269 of 1998. It was heard and decided on 10-07-2008 directing this Tribunal to rehear the reference and to decide it within six months from the receipt of the writ.

3. Accordingly notice was issued to parties informing the date of hearing.

4. By Exhibi-4, Union informed that, they are not interested in the continuance of the reference which is remanded back by the Hon'ble High Court while disposing of the WP No. 269 of 1998.

5. Considering the stand of the union as taken in Ex-4 I do not find it necessary to proceed with the reference. Hence the Order :

ORDER

Reference is disposed of vide Ex-4

Dated: 18-11-2008

A. A. LAD, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2008

का.आ. 105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ नं.-1, के पंचाट (संदर्भ संख्या 119/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-2008 को प्राप्त हुआ था।

[सं. एल-12012/09/2003-आई.आर.(बी.-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th December, 2008

S.O. 105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2003) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala, and their workmen, received by the Central Government on 24-12-2008.

[No. L-12012/09/2003-IR-(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No. ID 119/2003

Sh. Surinder Kumar, S/o Sh. Banta Ram, R/o Arya Nagar,
Jail Road, Gurdaspur-143521. ...Applicant

Versus

1. The Deputy General Manager, State Bank of Patiala Regional Office-III, Ambedkar Chowk, Jalandhar-144001.
2. The Branch Manager, State Bank of Patiala Gurdaspur-143521. ...Respondent

APPEARANCES

For the Workman : Sh. D.P. Gosain.

For the Management : Sh. N. K. Zakhmi.

AWARD

Passed on : 3-12-2008.

The Government of India, vide Notification No. L-12012/09/2003-IR-(B-1) dated 30-5-2003 referred the following industrial dispute for judicial adjudication to this Tribunal:—

“Whether the action of the management of State Bank of Patiala, Regional Office-III, Jalandhar and Branch Manager, State Bank of Patiala, Branch Office, Gurdaspur in dismissing the services of Shri Surinder Kumar, Daftri, w.e.f. 10-9-2000 by way of inflicting much an excessively harsh and shockingly disproportionate punishment not commensurate with the gravity of the charge, was justified? If not, what relief, he is entitled to?”

2. The plain reading of the reference shows that the main question for determination before this Tribunal is

whether the punishment awarded by the punishing authority (disciplinary authority) is shockingly disproportionate to the committed misconduct. Meaning thereby, this Tribunal has not to go in deep regarding the departmental proceedings and enquiry conducted by the enquiry officer. For discharging my duties on the gravity of punishment, the nature of charge proved against the workman is to be seen. The Tribunal is also at liberty to look into the mitigating circumstances compelling the workman to commit such a misconduct as well as previous conduct of the workman.

The misconduct proved against the workman is that he misappropriated Rs. 5,000 of Smt. Suneeta Devi a customer of the bank and used that amount for his own purposes. In his statement of claim, the workman Surinder Kumar has only stated that he could not understand the nature of his duties. It is also the contention of the workman that the complainant had withdrawn her complaint giving rise to this Tribunal for invoking jurisdiction under Section 11-A of the Industrial Disputes Act.

The Complainant Smt. Suneeta Devi withdrew her complaint has no concern with the adjudication of this reference because she had withdrawn her consent during the departmental proceedings and enquiry conducted against the workman. The enquiry officer has considered this fact of withdrawing the complaint by the complainant while giving the enquiry report holding the charge well proved against the workman. The scope of Section 11 is very limited for this tribunal. In exceptional cases, the jurisdiction vested under Section 11-A of the Industrial Disputes Act, can be invoked only in the circumstances where the punishment awarded by the disciplinary authority is shockingly disproportionate to the misconduct proved against the workman. In this case, the misconduct which is well proved against the workman is that the misappropriated Rs. 5000 of the customer of a bank. The act of a misappropriated Rs. 5000 of the customer of the bank is a fraud against the bank and also has adverse effect on the trust and confidence of public in the financial institution like bank. Thus, committing fraud by misappropriation of money of any person having the business with the bank is such a misconduct for which dismissal from the services is appropriate punishment. Whatever may be circumstances, no person working with the bank can be excepted to derailed from the way of honesty and integrity which are the back bone of the institution and an inherent quality of every employee. If there is any divergence from the way of integrity honesty and by the workman, the confidence of the institution in the eyes of public will certainly be at stake. In this case, the punishment given to the workman, in my opinion is not shockingly disproportionate to the charge proved against

him and the disciplinary authority has rightly punished the workman with the punishment of dismissal from the services. This reference is disposed of accordingly. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2008

का.आ. 106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नार्थन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ नं.-1, के पंचाट (संदर्भ संख्या 237/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-2008 को प्राप्त हुआ था।

[सं. एल-41012/37/2001-आई. आर. (बी.-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th December, 2008

S.O. 106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 237/2001) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of Northern Railway and their workmen, received by the Central Government on 24-12-2008.

[No. L-41012/37/2001-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No. ID 237/2001.

The Secretary, Retd. Employees Railway,
Pensioner's Association C/o. H. No. 551,
Sector 41-A,
Chandigarh

...Applicant

Versus

The Divisional Railway Manager, Northern Railway,
Ferozepur Cantt.

...Respondent

APPEARANCES

For the Workman : Sh. Madan Mohan and
R. P. Sharma

For the Management : Sh. N. K. Zakhmi.

AWARD

Passed on : 11-12-2008

Sh. Charan Dass raised the Industrial Dispute vide Notification No. L-41012/37/2001 IR(B-I) dated 20-6-2001 regarding his eligibility of pay scale of Booking Clerk from October, 1985. On failure of conciliation proceedings before ALC, Chandigarh, the Central Government referred the following industrial dispute for judicial adjudication :—

“Whether the action of the management of Northern Railway, Ferozepur in granting the scale of Booking Clerk to Sh. Charan Dass S/o. Shri Dilpa Ram w.e.f. October, 1985 is just. If not, what relief the concerned workman is entitled and from which date ?”

From the pleadings of parties, it is clear that Shri Charan Dass was appointed as Water Man on 15-8-1957 by the management. He was selected as Booking Clerk on adhoc basis from 10-3-1973 in the then pay scale of 260-430. He was confirmed by the management as Booking Clerk vide letter No. 757E/10/1-PIA dated 31-3-1982. On 15-10-1995, he was reverted from the post of Booking Clerk to that of Ticket Collector in the pay scale of 260-400. The workman challenged his reversion from Booking Clerk to Ticket Collector by raising the industrial dispute and on account of failure of conciliation proceedings, this reference. Management of respondent contended that Sh. Charan Dass was promoted as Booking Clerk on adhoc basis subject to his passing P-7 test. He could not qualify the test even in extra chances provided to him; accordingly, he was supposed to be reverted back as the Water Man. But considering his services to the department, he was made Ticket Collector from 15-10-1985 and his basic pay was also protected.

The question for adjudication before this Tribunal is whether the management of Northern Railway has rightly reverted Sh. Charan Dass from the post of Booking Clerk to the Ticket Collector on account of his failure to pass P-7 test? Both of the parties were afforded the opportunity for adducing evidence. Affidavits, cross-examination of parties and relevant documents are on record.

I have heard learned counsels for the parties and perused entire materials on record. Before raising the industrial dispute, the workman preferred a petition under Section 33-C (2) of Industrial Disputes Act before Labour Court Jalandhar. Labour Court Jalandhar, after affording the opportunity of being heard to the parties, dismissed the application on the ground that the amount which sought to be computed has yet not been determined by any Court of competent jurisdiction. Accordingly,

Sh. Charan Dass raised the industrial dispute which is being adjudication by this Tribunal.

I have gone through the oral and documentary evidence of the parties. It is evident that on 10-3-73, Sh. Charan Dass was promoted as Booking Clerk on ad-hoc basis in the pay scale of 260-430 with the condition that he will pass the departmental suitability test, known as P-7, within the attempt prescribed by the rules. It is also clear that the workman could not qualify the test even after providing extra attempts and there was no option left before the management but to revert him.

One more circumstance before this Tribunal is that before reverting the workman, he was confirmed as Booking Clerk on 31-3-82. It is the contention of the management that he was wrongly confirmed as he could not qualify P-7 test. The contention of the management is proper because confirmation of the workman from ad-hoc-promotion to his regular promotion depended on his qualifying P-7 test. As he could not qualify the test, his confirmation was against law and he was rightly reverted.

On perusal of the materials on record, it is also evident that while reverting, the management has also considered the services rendered by the workman to the Railway Department and the management was kind enough not to revert him to the post of Water Man but to the post of Ticket Collector under the rules, and his basic pay was also protected. At the time of reversion, his basic pay was Rs.370/- and after reversion, he was also given the basic pay of Rs.370/-. It is not the contention of the workman that while working as Booking Clerk he was not paid the salary of Booking Clerk. He worked as Booking Clerk from 10-4-73 to 14-10-85 and, accordingly, he was paid the salary of Booking Clerk. Thus, there is no violation of the rule of equal work and equal pay as raised by the workman. From 15-10-85, his work was different on a lawful cause and he was paid in the different pay structure subject to the protection of his basic pay.

As stated earlier, passing of P-7 test was a condition precedent for his promotion to Booking Clerk post. He could not qualify the test and was rightly reverted. So, from 15-10-85, he was rightly refused the pay scale of Booking Clerk. As his pay was also protected by the management, there seems to be no legal case for grievances to the workman. Workman is accordingly not entitled to any relief. This reference is disposed of accordingly. Central Government be informed. File be Consigned.

G.K.SHARMA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2008

का.आ. 107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ नं. 1 के पंचाट (संदर्भ सं. 93/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-2008 को प्राप्त हुआ था।

[सं. एल-12012/111/1995-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th December, 2008

S.O. 107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/1996) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala, and their workmen, received by the Central Government on 24-12-2008.

[No. L-12012/111/1995-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case I.D. No. 93/96

Sh. Amarjeet Singh Bhatia, C/o Sh. Tek Chand Sharma,
25 Sant Nagar, Civil Lines, Ludhiana.

.....Applicant

Versus

General Manager, State Bank of Patiala, The Mall, Patiala.

.....Respondent

APPEARANCES

For the workman : Sh. Tek Chand Sharma

For the management : Sh. N. K. Zakhmi

AWARD

Passed on : 11-12-08

Government of India vide Notification No. L-12012/111/95-IR (B-1) dated 1-10-96 referred the following industrial dispute for judicial adjudication :—

“Whether the action of the management of State Bank of Patiala, in terminating the services of

Sh. Amarjeet Singh Bhatia, is legal and justified? If not, to what relief the concerned workman is entitled and from what date?”

From the perusal of the pleadings of parties, it is evident that the workman Sh. Amarjeet Singh Bhatia was terminated from the services after conducting an enquiry for his alleged misconduct for fraudulently withdrawal of Rs. 4,000 from Saving Bank Account No. 11708 held jointly by Smt. Dalip Kaur, the surviving account holder with Late Sh. Dalip Singh. From the materials on record, it is also clear that Smt. Dalip Kaur filed a complaint on 2-4-1984 that a sum of Rs. 4,000 has been withdrawn from her account fraudulently under the signature of her husband on 2-4-84, whereas, her husband has expired on 19-6-83. She filed the photocopy of the Death Certificate of Sh. Dalip Kumar, her deceased husband. Matter was reported by the Manager concerned to the higher authorities and a preliminary enquiry was ordered. After the report of preliminary enquiry, it was decided by the disciplinary authority to conduct the enquiry against the workman.

This fact came to the notice of disciplinary authority before initiation of inquiry that the complainant Smt. Dalip Kaur had withdrawn the complaint without assigning any reasons.

Explanation was called for from the workman concerned. Dissatisfying with the explanation given by the workman, a departmental enquiry was ordered. The enquiry officer after conducting the enquiry submitted the enquiry report and disciplinary authority, after affording the opportunity of being heard to the workman, awarded the punishment of dismissal of workman from the services.

The main contention of the workman is that he had not committed any misconduct and the enquiry was conducted in violation of the principle of natural justice. The enquiry officer has not given the report on the basis of evidence on record, but on the basis of personal knowledge which is against the principle of natural justice. The management of respondent denied it. It is contended that proper opportunity was given to the workman and on the basis of evidence and after affording the opportunity of being heard, enquiry officer has rightly held charges to be well proved against the workman and disciplinary authority, accordingly, has rightly awarded the punishment of dismissal from the services.

Both of the parties were afforded the opportunity for adducing evidence. Workman and enquiry officer filed their respective affidavits and they were cross-examined by respective learned legal representatives. Entire enquiry file is also on record.

I have heard learned counsels for the parties and perused entire materials on record. The issues for adjudication before this Tribunal are :

1. Whether the enquiry was conducted in a fair, reasonable and proper manner and whether there

has been any violation of any rules of principle of natural justice by the enquiry officer while conducting the enquiry?

2. Whether the enquiry officer on the basis of the evidence on record has rightly held both of the charges well proved against the workman?
3. Whether disciplinary authority has awarded the punishment in proportionate to the committed misconduct?

I am adjudicating all these issues one by one.

So for as issue No. 1 is concerned, the workman Sh. Amarjeet Singh, in his cross-examination has admitted that he was afforded all possible opportunity by the enquiry officer. It is stated in his evidence that copy of charge sheet was supplied to him and he was present on every date on which the proceedings in enquiry were held. He has further stated that he has cross-examined all the witnesses of the management (no doubt enquiry officer in his enquiry report has mentioned that he has not cross-examined PW5), he was given opportunity for adducing the defense witnesses and for filing briefs before enquiry officer. Thus, on issue No. 1, which is basically on the genuineness of the enquiry, I am of the view that enquiry was conducted in a fair and reasonable manner and there has been no violation of any rules of principle of natural justice.

It is true that in statement of claim, the workman has contended that enquiry officer has acted on the basis of his personal knowledge. But the workman has not stated the instances which are based on the personal knowledge of the enquiry officer. Moreover, the workman has further failed to prove the prejudice caused to him by acting upon the enquiry officer on his personal knowledge. Thus, it is the formal pleading of the workman that enquiry officer has given the report on the basis of his personal knowledge.

Few of the questions were asked by enquiry officer during the cross-examination from the witness of the bank. It shows that workman gathered the impression that enquiry officer acted on the basis of his personal knowledge while giving the report. The enquiry officer has every right to ask any question from any witnesses, and on the basis of exercising such power, it cannot be said that enquiry officer is involved in generating evidence against the workman. Enquiry officer, while conducting the enquiry worked like a Judge. He has to maintain impartiality while doing justice. In the process of doing justice, he is legally authorized to ask any question at any stage of the proceedings from any of the witnesses. This authority of the enquiry officer cannot be challenged, unless; it is not proved that enquiry officer has acted in a biased manner. There is no contention of the workman that enquiry officer was biased. Thus, by asking few questions from the witness for the purpose of

doing justice is within the legal competency of the enquiry officer and the contention of the workman cannot be trusted that enquiry officer acted on the basis of his personal knowledge.

On 2-4-84, a sum of 4,000 rupees was withdrawn from the joint Saving Account No. 11708 held by Smt. Dalip Kaur the surviving account holder along with her deceased husband Sh. Dalip Singh. During preliminary enquiry, it came to the notice of the preliminary enquiry officer, Sh. V. L. Shahi that the withdrawal form was entered and posted in the ledger and long book by the workman and he issued the token to the person who tendered the cheque and get the cash. It also came to the notice that another employee of the bank Sh. Jaswant Singh Special Assistant in charge of saving account seat passed the cheque and make the payment. During this preliminary enquiry proceedings, it came to the notice of Sh. Shahi that Smt. Dalip Kaur withdrawn her complaint. During preliminary enquiry she was persuaded to make any statement but she refused except to the fact that she has withdrawn her complaint. While conducting the investigation on nature of withdrawal, it also came to the notice that the withdrawal form was torn partially and the part of withdrawal form containing the amount and signatures of account holder was not available and traceable. Considering the fact that there were lapses on the part of the bank employees, in fraudulently withdrawal of amount of Rs. 4,000 and, thereafter, in destroying the evidence, it was ordered to conduct the full-fledged enquiry against the bank employees.

The workman, during enquiry, admitted the posting of withdrawal cheque in ledger book and long book. As more as 10 witnesses were examined by the enquiry officer for proving the charge against the workman and all these witnesses were cross-examined except PW5. The workman also adduced two witnesses in his defense. In this case direct evidence was not available and it was only circumstantial evidence on the basis of which enquiry officer has given the finding. While adjudicating this reference on the basis of circumstantial evidence, I have also to keep in mind the fact of withdrawal of complaint by the complainant and the circumstances under which she withdrawn the complaint. Considering the nature of proceedings before this Tribunal, to cut short the matter, I am mentioning the circumstances, while adjudicating this reference which are proved against the workman.

1. From the perusal of the evidence, it is proved that the withdrawal slip was filled in by the workman, Sh. Amarjeet Singh.
2. This circumstance is also proved and admitted by Sh. Amarjeet Singh that he posted the cheque in the relevant ledger book and long book.
3. The third circumstance which is proved is that he issued the token to the person who presented the cheque.

4. It is also proved that he persuaded Sh. Jaswant Singh Special Assistant for clearing cheque in absentia of pass book.
5. It is also proved that Sh. Jaswant Singh cleared the payment of 4,000 rupees on assurance of the workman that he knows the man who represented the cheque and get the cash.
6. The return of Rs. 4,000 with interest by the workman is proved through the circumstantial evidence.
7. When it is proved that workman posted the withdrawal form in concerned ledger and log book, it was the duty of the workman to prove that he was doing it in the ordinary course of business of the bank. By the witnesses of the bank, it is proved that neither he was lawfully entitled to do this work nor was authorized by the Manager or Special Assistant. The workman has failed to prove that he was doing such work previously as well. It is also proved that the bank was not in short of class-III employees and as more as, apart from the Special Assistant, two class-III employees were working on the day in question. Thus, the workman utterly failed to prove the circumstances under which he posted the withdrawal form in the relevant registers.
8. The last but not the least circumstance is the option of workman for his transfer to the small branch to his disadvantage. He requested in writing to the bank authorities for his transfer to the smaller branch having no post of head peon and was ready to surrender his special allowance only available to the head peon. It is the strange circumstance because in the ordinary course of nature, nobody would prefer for his transfer to the smaller branch for his financial disadvantage.

In my opinion, once a complaint is lodged for fraudulent withdrawal of any amount from the bank, and is proved, there will be no effect of withdrawal of the complaint. The complaint was withdrawn without assigning any reasons. On persuasion during the enquiry proceedings, it was only stated by the complainant that she received entire amount with interest but she did not disclosed the name from whom she received the amount?

The evidence of the parties and circumstances proved that it was Amarjeet Singh only who returned the amount to the complainant and on returning the amount the complainant withdrew the original complaint. There will be no effect of withdrawal the complaint, if the charge of misconduct for fraudulently withdrawing the amount of a customer of the bank is proved. Thus, the enquiry officer has rightly held the charge No. 1 well proved against the workman.

Circumstances speaks themselves. The withdrawal form was torn in such a way to destroy the evidence regarding the signature of the account holder. The person who has some interest in the transaction can do so. So, the enquiry officer was right in holding the charge No. 2 for destroying the evidence against the workman. Evidence on record also proved that workman was also having opportunity to torn part of the withdrawal form. In my opinion, the enquiry officer on the basis of the evidence on record has rightly held the charge No. 1 and 2 well proved against the workman.

The disciplinary authority after affording the opportunity of personal hearing on proposed punishment and considering the request of the workman has rightly awarded the punishment of dismissal of the workman. Fraudulent withdrawal and destroying the evidence to conceal fraud are such a misconduct which should be dealt with severely by disciplinary authority, while awarding punishment. Such acts are against the interest of the bank and bank lost the faith in the workman. Thus, the punishment of dismissal from the services was in proportionate to the committed misconduct. No interference at this stage is called for. Reference is accordingly disposed of. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2008

का.आ. 108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार और्किलाजिकल सर्वे ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1 धनबाद के पंचाट (संदर्भ सं. 103/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-2008 को प्राप्त हुआ था।

[सं. एल-42012/131/98-आई.आर. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th December, 2008

S.O. 108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/98) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman, which was received by the Central Government on 26-12-2008.

[No. L-42012/131/98-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD**

In the matter of a reference U/s. 10(1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 103 of 1998

Employers in relation to the management of the Supdt., Archaeological Survey of India

AND

Their Workman

Present: Shri H. M. Singh, Presiding Officer.

APPEARANCES

For the Employers : Shri A. Srivastava, A.S.A.

For the Workman : None

State : Bihar. Industry : Archaeology.

Dated, the 10th November, 2008

AWARD

By Order No. L-42012/131/98-IR (DU) dated 30-11-98 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Archaeological Survey of India, in terminating the services of Shri Ranjan Kumar Singh is legal and justified? If not to what relief workman is entitled?”

2. In this case the order of reference was received in this Tribunal on 28-12-1998. Thereafter notices were issued to the parties for appearance and for filing written statement by the workman. In spite of adjournment none appeared on behalf of the workman. Therefore, it appears that the workman is not interested to contest the case.

3. In view of such circumstances, I render a “No Dispute” Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2008

का.आ. 109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 106/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-2008 को प्राप्त हुआ था।

[सं. एल-40012/53/2004-आईआर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th December, 2008

S.O. 109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 106/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 26-12-2008.

[No. L-40012/53/2004-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

Present: Shri N. K. Purohit, Presiding Officer.

I.D. No. : 106/2004

Ref. No. L-40012/53/2004-IR(DU) dated 5-10-2004

BETWEEN

Shri Lallan Prasad S/o Sh. M. Prasad
C/o Telecom District Manager, Bahraich-271865

AND

The Telecom District Manager, Telecom Deptt. BSNL
Bahraich-271865

Dated, the 12th December, 2008

AWARD

By Order No. L-40012/53/2004-IR (DU) dated 5-10-2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred following industrial dispute Shri Lallan Prasad S/o Sh. M. Prasad C/o Telecom District Manager, Bahraich and the Telecom District Manager, Telecom Deptt. BSNL, Bahraich for adjudication :—

“Whether the action of the management of Bharat Sanchar Nigam Ltd., Bahraich in terminating the services of Sh. Lallan Prasad S/o Shri M. Prasad, Daily labour w.e.f. 31-07-2001 is legal and justified? If not, to what relief the workman is entitled?”

2. The case of the workman in short is that the workman was engaged by the management of BSNL, in August, 1998 as a daily wages casual labourer (Class IV post) in serious exigency of departmental work and since then he was working on the said post and has worked for more than 240 days in the preceding year. The workman has alleged that the management of the BSNL has orally terminated his service w.e.f. 31-07-2001 without any valid

reason in absolutely illegal, arbitrary, malafied and discriminatory manner without affording any opportunity of hearing. The workman has further stated that in absence of regular appointments, the telecom department has been engaging daily wages casual labourers from time to time to meet the exigency of the work. The workman alleges that he has not been given temporary status even after being recommended for the same, whereas the Department has granted temporary status and consequential benefits to similiary situated daily rated casual labourer vide Memo No. E 17/Ch II/TDM-BRH/Casual Labourer/II dated 18-07-2000 of Department of Telecommunications, Office of the Telecom District Manager, Bahraich. The workman has also alleged that the management of BSNL has violated various provisions of the Industrial Disputes Act, 1947 i.e. Section 25 N for non-conduction of any inquiry against him or service of any charge sheet, as well as for non-payment of any notice pay or retrenchment compensation; Section 25 G for retaining and continuing juniors in service; and Section 25H for engaging new persons without affording any opportunity to the workman for employment. Thus, the workman has prayed that the management of BSNL be directed to consider the case of the workman, to take him back in service with back wage, to provide the workman temporary status with consequential benefits and to provide bonus.

3. The management of the BSNL, in its written statement, has disputed the claim of the workman and has submitted that it never engaged the workman in any capacity in the year August, 1998 or subsequently, hence, there arise no question of having completed 240 days of service or alleged oral termination or of violation of any of the provisions of the Industrial Disputes Act, 1947 at all. The management has mentioned that it has Service Rules and Recruitment Rules and all appointments are made strictly in accordance with those Rules and the workman is liable to put strict proof in support of his claim i.e. to submit his appointment letter, details of payments and other relevant documents in support of his claim. In this regard the management has pointed out that there was a complete ban on engagement of fresh Casual Labourer/Daily Wagers in the Department w.e.f. 12-06-1998. The management of BSNL has submitted that earlier the Casual Labourers were engaged on muster roll, but consequent to ban on engagement of Casual Labourers/Daily Wagers w.e.f. June, 1998 no fresh labourer has been engaged on muster roll and also, the labourers who were earlier working on muster roll and were covered under grant of temporary status and regularization scheme have been granted temporary status. The case of the workman does not fall within that category because he was never engaged by the management in any capacity altogether. Thus, the management has prayed that the claim of the workman be rejected being incorrect and misconceived, since he was never engaged or appointed by the management of BSNL in any capacity.

The workman has filed rejoinder, whereby he has only reiterated his earlier averments in the statement of claim and has not introduced any new fact.

5. The workman has filed photocopies of certain documents with his statement of claim, in support of his case whereas the management has not filed any documents with its written statement, although it has disputed the authenticity of the photocopies of the documents filed by the workman. The workman examined himself in support of his case whereas, the management filed affidavit of Sh. Ram Charan, Divisional Engineer [HQ] in support of their case, but the workman did not turn up to cross examine the management's witness. Accordingly, the case proceeded ex-parte against the workman and date was fixed for arguments. The management filed its written arguments whereas the workman once again did not turn up either for oral arguments or for filing written arguments, hence after allowing ample opportunity to the workman for arguments, the case was reserved for award.

6. Heard the arguments of the learned representative of the management and peruse the relevant record.

7. The workman has examined himself in support of his claim. He has stated on oath that he had worked as casual labourer at Nanpara Exchange from 1-6-98 to 31-7-01 but he has been disengaged on 1-8-01 by verbal order of the then SDO, Nanpara Exchange Sh. D.K. Sawhney. He had worked for more than 240 days in each year. He has also stated that he was getting Rs. 1200 per month by receipt on ACG-17. As regards date of his engagement as casual labourer, there are inconsistencies in his statement on oath & his averments in the statement of claim. He has stated that he was engaged by the then SDE Sh. Sawhney at Nanpara Exchange on 1-6-98 whereas in his statement of claim at para 4 he has stated that he had joined as casual labour in August, 1998 but in next para he has stated that he was engaged as casual labourer in August, 1977. There are contradictions in his statement on other material points also. In examination in chief, the workman has stated that he was doing job of generator operation, fault work and switch room work, whereas in cross examination he has stated that he was doing the job of digging of holes for erection of poles and the cable laying work was being done by the contractor Sh. Dinesh Singh. He has further stated that wages were being paid to him by the then SDO Sh. Sawhney but on being further cross examined on this point, stated that the wages were being paid by the then SDE(T) Sh. M.K. Srivastava. Furthermore, on the one hand he has stated that he was employed by SDE Sh. Sawhney and his services were terminated by him but in cross examination he has stated that he was working under the SDE (T) Sh. M.K. Srivastava at Bahraich who was taking work from him and paying wages & his services were terminated. Thus, aforesaid contradictions and inconsistencies in the statement of the workman on material point have shaken credibility of his testimony & the same

is not reliable unless corroborated by other oral or documentary evidence.

8. Now, it is to be seen whether statement of the workman finds support & corroboration from any other oral or documentary evidence. The workman has not produced any other witness in support of his case in documentary evidence. He has submitted Xerox copy of the certain documents as Ann. 1 to Ann. 6. Ann. 1 is the copy of the reference order, Ann. 3 is order dt. 18-7-2000 regarding granting of temporary status to 14 workmen and Ann. 4 is the letter written by SDE(T), Mihinpurwa to the TDE, Bahraich regarding regularization of six workmen. The above documents pertain to regularization and temporary status to the other workmen. Ann. 5 is the copy of the award passed in the matter of Anurag Prasad Tewari workman but in that case it was admitted position of the management that workman had worked for 240 days. Ann. 6 is the letter dated 30-2-2002 sent by Dy. GM (Admn.) to Addl. Director General, BSNL, New Delhi for regularization of the workers mentioned in the enclosed list. None of the above documents are relevant to establish the claim of the workman that he had worked for requisite period for granting temporary status & regularization.

9. The workman has filed the zerox copy of the letter of the SDE(T), Nanpara addressed to the TDM, Bahraich alongwith list of 14 persons who were not in the temporary status. Zerox copy of the above list is not legible. The workman in his cross examination has stated that he had produced experience certificate with his claim & original copy of that certificate is at his home. But he has not produced any such alleged original experience certificate in support of his claim. Therefore, even from the documentary evidence the workman has failed to establish that he had continuously worked for 240 days proceeding date of his alleged termination.

10. The workman has admitted these facts in his examination that no vacancy for the post was published in the newspaper and his name was not forwarded by the Employment Exchange. He has also admitted that there was a ban for recruitment in BSNL. He has not produced any appointment letter or attendance register or any receipt slip of wages.

11. In rebuttal of the workman evidence, the management has submitted affidavit of Sh. Ram Charan, DE, HQ, Bahraich. He has stated that there was no vacancy or post available in the department, no post was ever notified and no appointment process was ever held. He has further stated that there was no master and servant relationship between workman and the department. He has also categorically stated that SDEs are not authorized to engage any person on daily wages on casual basis. He has alleged that the then SDE, Sh. Dukhanti Prasad Sawhney made fictitious and forged payment to the labourers and in this respect memo was issued to him. He has further alleged that

entire claim of the workman is fabricated & false. Despite opportunity given to the workman, he did not avail the opportunity to cross-examine the above management witness, therefore, there is no reason and material to disbelieve the statement of above witness.

12. The learned representative of the management has contended that since it was a claim of the workman that he was an employee of the department and there exist master and servant relationship between him and the department, the burden to prove the same was on him. He has further urged that as a matter of policy the line and cable work is being undertaken through contractors which includes digging of holes and erecting of poles besides laying lines and cable. The workman in his deposition during his cross examination accepted that he being a casual labourer was doing the job of digging holes and erection of poles, therefore, it is apparent on face of records that he was in fact not an employee of the department. He has further urged that the workman has not produced appointment letter, pay slip termination letter or any other document to substantiate that he was appointed by the department against any vacancy and he had worked continuously for more than 240 days in a year. The learned representative has relied on the following case laws:—

1. Range Forest Officer Vs ST Hadimani. 2002 (93) FLR-page 179
2. Municipal Corporation, Faridabad Vs Siri Niwal 2004(103)FLR page 187
3. MP Electricity Board Vs Hariram 2004(103) page 420
4. Manager, Reserve Bank of India, Bangalore Vs S. Mani & Others 2005(105) FLR - 1067
5. RM Yellatti Vs. The Asstt. Executive Engineer 2006 (108) FLR Page 213
6. ONGC Ltd. & another Vs. Shyamal Chandra Bhowmik 2006 (1) SCC page 337.

13. It is well settled that the party challenges the illegality of the order burden lies on him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the court must fail. In 2002 (93) FLR page 179 the Hon'ble Apex Court has observed :

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order record of appointment or engagement for that period

was produced by the workman. On this ground alone the award is liable to be set aside.”

14. In 2006 (108) FLR 213 after analyzing its earlier decision on the above point Hon'ble Apex Court has laid down as under:-

“However, applying general principles and on reading the aforesaid judgments we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year.”

15. In the present case burden was on the workman to set out the grounds to challenge the alleged termination order to prove the termination order was illegal and he had worked continuously for more than 240 days preceding the alleged termination. The affidavit of the workman is merely self serving statement in his own favour which can not be rendered as sufficient evidence to come to the conclusion that he had worked for 240 days in a calendar year, particularly when there are contradictions in his statement on material points as pointed out earlier. Besides this he has stated that he had original experience certificate at his home but he has not produced the same. Admittedly, no vacancy was advertised, no appointment letter or offer of appointment was ever issued to him no receipt slips of wages have been produced by him. The management witness has denied the claim of the workman and he has alleged that claim of workman is totally false. It appears from the order sheet dt. 26-7-06 and subsequent order sheet that the workman did not avail opportunity provided to him to cross-examine the above witness. It also appears that neither the workman nor his representative appeared and participated in the proceeding of the case since 25-9-06.

16. In view of the above discussion, the workman has failed to establish that he had worked as casual labour/daily wager for atleast 240 days preceding the year from the date of his alleged oral termination or 240 days in any calendar year.

17. Accordingly, the reference order is adjudicated against the workman and the workman is not entitled for any relief.

18. Award as above.

Lucknow

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 16 जनवरी, 2009

का.आ. 110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टरेट ऑफ प्रिंटिंग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 58/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-1-2009 को प्राप्त हुआ था।

[सं. एल-16011/2/93-आई आर(डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 16th January, 2009

S.O. 110.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/93) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Directorate of Printing and their workmen, which was received by the Central Government on 16-1-2009.

[No. L-16011/2/93-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT NO. II, ROOM NO. 33,
KARKARDOOMA COURT COMPLEX, BLOCK-A,
DELHI - 110032.**

In the matter of dispute between :

I. D. No. 58/1993

Shri O.P. Sood,
Son of Shri Puran Chand Sood,
R/o 118 C, Kirpal Apartment,
44, I.P. Extension,
Delhi - 110092.

....Workman

Versus

The Director,
Union of India,
Directorate of Printing,
Nirman Bhawan,
New Delhi.

... Management

AWARD

The Central Government, Ministry of Labour vide Order No. L- 16011/2/93-IR.(DU) dated 26-8-93 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the Director, Directorate of Printing, Nirman Bhawan, New Delhi was justified in not implementing the revised pay scale of S/Shri O.P.Sood, Mahender Pal, Charanjeet Baggal, Technical Asstts. (varitype) from Rs. 1320-2040 to 1400- 2300 in pursuance of the Ministry of Finance, Dept. of Expenditure O.M. No. 36(1) -I.C. -88 dated 31-10-89? In not, what relief the workman concerned are entitled to?”

2. The above reference pertains to three workmen's i.e. (1) Shri O.P. Sood, (2) Mahender Pal and (3) Charanjit Baggal Technical Assistants (varitype). However, only Shri O.P.Sood is pressing his case and has filed his statement of claim. Mahender Pal and Charanjit Baggal are not attending the court and pressing their claim for a very long period. They have never attended. Neither they nor anyone on their behalf have attended any hearing before me. Evidently they do not seem to be interested in the outcome of this reference. As regards these two workmen Mahender Pal and Charanjit Baggal. A No Dispute Award is hereby passed in their case.

3. Workman Mr. O. P. Sood in his statement of claim has submitted that the Fourth Pay Commission had proposed the Pay scale of Rs. 1320-2040 for Technical Assistant (varitype) in Presses under Directorate of Printing which was implemented in the year 1986. That it was clearly notified that this pay scale shall remain in force only till the findings of the Inter-departmental committee being appointed by the Government of India which will consist of representatives of all major Ministries/ Departments employing the Printing Staff and consider reclassification and remunerations broadly for their Printing Staff so as to form uniformity in this regard. This committee after prolonged discussions and various considerations finally recommended higher pay scale of Rs. 1400-2300 for Technical Assistants (varitype) and the same was approved and implemented vide Ministry of Finance Department of Expenditure OM No. 36(1) - IC/88 dated 31-10-89 and Ministries/Departments of the Government of India were asked to issue necessary orders in respect of Printing Staff in existence under their respective Units. Since Post of Technical Assistant (varitype) existed on the said date in Photo Litho Unit of Government of India Press, Minto Road, New Delhi under Directorate of Printing, the said directorate had to implement the revised pay scale of Rs. 1400-2300 for Technical Assistants (varitype). Unfortunately they did not do so and ignored the same thus forcing the workman to knock the door of this Tribunal.

4. According to workman O.P. Sood, he was working as Technical Assistant (varitype) in Photo Litho Unit of Government of India Press, Minto Road, New Delhi since the year 1971-1972, on substantive basis. That even during conciliation proceedings before the A.L.C. the concerned authority could not justify as to why the Director, Directorate of Printing chose to ignore to act on the Ministry of Finance Department of Expenditure O.M. No. 36(1)-IC/88 dated 31-10-89. Instead of resolving the issue the Directorate tried to rake up an altogether different issue thereby asking the workman to pass the Trade Test and become key Board Operators. The workman even approached the Secretary to the Government of India Ministry of Urban Development through proper channel on 7-12-90 but failed to get any positive response. The workman therefore, has prayed that Director, Directorate of Printing be directed to do the needful in accordance with Ministry of Finance Department of Expenditure O.M. No. 36 (1)-IC/ 88 dated 31-10-89.

5. In its reply the management has contested the claim of the workman. According to them the Inter-Departmental Committee had no authority to sanction any pay scale and it was only a recommendatory body. Further Inter-Departmental Committee did not recommend the pay scale of Rs. 1400-2300 to the Technical Assistant (varitype) unconditionally.

6. That the Inter-Departmental Committee in its report had noted that the cadre of Technical Assistant (varitype) was a dying one and is gradually and increasingly being replaced by adoption of Photo Composing System. That there was no work for this category of employees in the Government of India Presses on account of change in technology. That though there was no work for this category of employees yet they were retained in service due to the magnanimity of the Department and they have not been retrenched. That to meet the situation created by the replacement of the system by the Photo Composing system the recruitment rules of the Key Board Operators Photo Type Setting were amended and their vacancies were to be filled as under :—

(i) 50% by direct recruitment.

(ii) 50% by transfer failing which by direct recruitment.

7. That all the Technical Assistants of the Government of India Press, Minto Road were given training and opportunities to qualify the test and only two of them namely J.K. Seth and S.C. Chawla had qualified the test. That applicant O.P. Sood could not qualified the test despite opportunities as has been discussed in the C.A.T. Principle Bench, New Delhi judgement dated 24-7-92 also. Thus the claim of the workman is not justified and is liable to be rejected.

8. By filing a rejoinder the workman has disputed the stand taken by the department. It is submitted that wrong/ false submissions were made before the C.A.T. The

workman has reiterated his claim made in the statement of claim.

9. I have heard the workman as well as the learned counsel for the management.

10. It is not in dispute in this case that the Central Fourth Pay Commission had proposed the pay scale of Rs. 1320—2040 for Technical Assistant (varitype) in Presses in the Directorate of Printing which scale was to be implemented from 1986. However, it was very clearly indicated that the proposed pay scale shall remain in force only till findings of the Inter-Departmental Committee which was to go into this issue and reconsider reclassification and remunerations so as to form uniformity in this regard are given. It is also not in dispute in this case that the Inter-Departmental Committee after prolonged discussions and various considerations finally recommended the Pay scale of Rs. 1400-2300 for Technical Assistants (varitype). All the Ministries/Departments of the Government of India acted in pursuance of the Ministry of Finance, Department of Expenditure O.M. No. 36(1)-IC/88 dated 31-10-89 but the Director of the Directorate of Printing, Nirman Bhawan, New Delhi did not implement the revised pay scale of Rs. 1400—2300 despite Ministry of Finance Department of Expenditure O.M. No. 36(1)-IC/88 dated 31-10-89. The repeated efforts of workman Shri O.P. Sood failed to get the revised pay scale of Rs. 1400—2300 and ultimately he had to knock the door of this Tribunal.

11. In between there was also an issue regarding the date of his retirement and so he had approached the C.A.T. for relief but there he did not get the desired relief and he then preferred an appeal (Civil Appeal No. 9169 of 1996) against the decision of the C.A.T. in the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India vide its judgement dated August 26, 2003 allowed the appeal and set aside the judgement and order dated 12-05-1995 in O.A. No. 2571 of 1994 passed by the C.A.T. Principle bench, New Delhi. The issue in the present case can also be conveniently resolved by referring to the judgment of the Hon'ble Supreme Court of India dated 26-8-2003. The Hon'ble Supreme Court of India in its judgement has clearly observed that appellant i.e. workman O.P. Sood was appointed and subsequently confirmed as Technical

Assistant on which post he was working since 9-8-1971. It also observed in the said judgement that Shri O.P. Sood had been signing the attendance register only as Technical Assistant and the same was duly authenticated by the higher authorities including the Deputy Manager. Thus he was holding a substantive post of Technical Assistant till the date of his superannuation. It is also observed that the documents filed in the case show that he was signing attendance register as Technical Assistant and was paid his allowance till the date of his retirement only the pay as was admissible Technical Assistant. When all the Ministries and Departments of the Government of India have acted on the Ministry of Finance Department of Expenditure O.M. No. 36(1)-IC/88 dated 31-10-89 what was the justification for the Director, Directorate of Printing, Nirman Bhawan, New Delhi not to act in accordance with the said O.M. There is absolutely no good, reasonable or solid basis for treating the case of Sh. O.P. Sood differently from the Technical assistants of the other Ministries and Departments of Government of India. There is no reason to single out the case of workman Shri O.P. Sood and discriminate him and not to implement the revised pay scale of Rs. 1400-2300 in pursuance of the Ministry of Finance Department of Expenditure O.M. No. 36(1)-IC/88 dated 31-10-89.

12. The Director, Directorate of Printing, Nirman Bhawan, New Delhi thus was not justified in not implementing the revised pay scale of Rs. 1400-2300 in respect of workman Shri O.P. Sood in pursuance of the Ministry of Finance, Department of Expenditure O.M. No.36(1)-IC/88 dated 31-10-89. The Director, Directorate of Printing, Nirman Bhawan, New Delhi, therefore, is directed to implement the revised pay scale of Rs. 1400—2300 in accordance with Ministry of Finance Department of Expenditure O.M.No. 36(1)-IC/88 dated 31-10-89 in the case of workman O.P. Sood. This however, will be subject to the orders passed by the Hon'ble Supreme Court of India vide judgment dated 26 August, 2003 passed in Civil Appeal No.9169 of 1996 Shri O.P. Sood Vs. Union of India and other. Award is passed accordingly.

SATNAM SINGH, Presiding Officer

Dated 13-1-2009